

A H E L P

To Magistrates, and Ministers of Justice,
also a Guide to Parish and Ward-
Officers.

Containing,

1. Plain Directions for Justices of the Peace, in material things relating to their Office, in and out of Sessions.
2. To their Clerks, in drawing Forms of Warrants, and other necessary Writings.
3. A Help to Grand and Petty Juries.
4. Penalties upon Forestallers of Markets, Fairs, Badgers, Drovers, Butchers, Tanners, Inholders, &c.
5. The Rates of Servants Wages, according to Statute Law, &c.
6. Some Directions to Coroners, and their Inquests, in many material things relating to their Office and Duty, &c.
7. Customs and other advantages peculiar to the City of London, in Privileges, Law-matters, Proceedings in the Court of Requests, Attachments, Court of Orphans, and other things.
8. The Office and Duty of a High Constable, Petty Constable, Headborough, Tything-man, Bailiff, &c.
9. The Office and Duty of Churchwardens and Sidesmen.
10. The Office and Duty of the Overseers of the Poor.
11. The Office and Duty of Toll-keepers and Fair-keepers.
12. The Office and Duty of Surveyors of Highways, Scavengers, &c.

The Second Edition.

With Amendments, and large Additions, agreeable to the several Acts of Parliament, in these Cases made and provided. By P. B. Gent.

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THE PREFACE TO THE READER.

Reader,

THIS little Book may be termed a Posy of choice Flowers, gathered out of divers curious Gardens: It contains a great many things useful and necessary to be known by all English Men, who at one time or other may stand in need of them, by way of Advice, as well as some may do it to put them in Practice. It is a Collection indeed, but such a one, that of this nature scarcely has appeared in any one Volume, though large, and at great Price; and certainly never before in so small a Compass. It contains, however, in Quality more by a great deal, than upon the first view, can reasonably be guessed by its Quantity. I need not instance Particulars, seeing in the Title-Page they are briefly set down, and in the Table more at large, though in neither so exactly as you will find them in Particulars, duly placed in the Book.

The Preface to the Reader.

I cannot doubt but it will be Instrumental in doing a great deal of Good; First, In giving Men an Insight what they ought legally to do. And secondly, What they ought to avoid, as not warrantable in the one kind to rest secure, and in the other to keep out of Danger, saving themselves thereby much Trouble and Expence. I have mostly quoted the celebrated Books from whence it was taken, and is warranted by those Men exceeding Skilful in the Laws of the Land; and for that Particular especially have left Names behind them that cannot be obliterated. Also I have cited such Statutes, Ancient and Modern, as the Parliaments have been pleased to make for well ordering the Government, and rendering us a happy People, in the Security they give us as to Life, Liberty, Property, &c. So putting all this together, I doubt not but the Reader's Expectation will be answered according to his desire, in that he will find nothing omitted he can fancy material, as far as is proposed, or herein could be contained; and then both of us have our Ends, I in Writing, and he in Reading so useful a Work, as past all Peradventure will find Encouragement, and descend to Posterity, which will be Grateful. Courteous Reader,

Your Friend to Serve you,

P. B.

T.H.E.

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READER

READER

Observe these short Directions to the
the Auctions being added or quoted,
as you find them set down through the
whole Book.

L Am. or Lamb. or Lamb. Mr.
Lambert's Justice of Peace, Dal. or
Dalt. Mr. Dalton's Country Justice of
Peace.

Br. Brook; sometimes **Ld. chief Justice**
of the Common Pleas.

F. or Fitz. Fitzherbert, sometimes one
of the Judges of the Common Pleas.

Dy. Dyer; sometimes **Lord Chief Ju-**
stice of the Common Pleas. **Dr.** certain
Directions or Resolutions of the Judges
of Assize, Anno 1643.

Co. Sr. Edward Coke; sometimes **Ld.**
Chief Justice of the King's Bench, viz. his
Book of Reports.

Co. Lit. Sr. Edw. Coke's first part of
his Institutes upon Littleton.

Fl. M. Hen. Finch Apprentice del
Ley.

P. Pl. Plow. Mr. Plowden's Commem-
-taries.

Ras.

Ras. or Rast. Rastals Abridgment of the Statutes.

Lib. Igr. The Book of Entries.

Cr. Cro. or Crom. Cromptons Justice of the Peace.

P. Po. or Pol. Mr. Polton's Abridgment of the Statutes P. R. Mr. Polton's pace Regis.

B. A. Sr. Francis Bacon his Elements of the common Law. B. A. V. his use of the Law.

Resol. of the Judges Resolution of the Judges of Assize, Anno 1633. to certain Queries.

Wing. Wingates Abridgment of the Statutes.

As for the Statutes cited, I conclude they are easy to be directed to by what is set down from the Names of the Kings and Queens, as 1 R. 2. the Second of Richard the second. 6 Hen. 7. the sixth of Henry the 7. P. M. Philip and Mary El. or Eliz. Queen Elizabeth. J. c. or Jacobi I. King James the first, and so of others. For where there have been more Kings of a Name than one, the figure is set down to distinguish that King in what Reign the Statute was made, from the rest, as Edw. 1. Edw. 2. Edw. 3. Edw. 4.

The Experienced

Justice of Peace.

In Respect to his Power, in and out of Sessions, in many Cases of great Importance; useful for Justices, their Clerks, and others.

CHAP. I.

The Antiquity of a Justice of the Peace, his Power, and what he may do in the Execution of his Office in many material Cases.

THE Power of a Justice of the Peace is very great, and is a main Prop and Pillar, of good Government, in taking Care to prevent and Punish Offences, whereby the Peace is Conserved, and Men maintained in their Rights, and the Possessions of their Goods and Chattels, &c. peaceably; whereas, were there not such Over-awing Magistrates, Offenders would be Imboldened to make more
A fre-

frequent Depredations, and Strength and Violence would seize upon what the Weaker could no ways defend against them, were not the Law by this means very much their Aid and Safeguard. This Office is of great Antiquity, and has all along held up a venerable Esteem, and Good-liking among the People, who find great Advantage, and Benefit by those so Commissioned, being usually Men of Estates, Discreet, and Judicious, capable of discerning Truth from Falshood, and to relieve the Injured, and restrain Oppressors, to punish Criminals, and Discharge the Innocent and Faultless.

Justices of the Peace were Created, 1 Ed. 3. Chap. 15. Dalt. 6. Lamb. 10.

But they were first named so by 36 Edm. 3. Chap. 12.

A Justice of the Peace is a Judge of Record, from whence called Justices, and before 1 Ed. 3. they were called Conservators. 3. Cro. 29, &c. He may take Recognizance of Peace, which none can do but a Judge of Record, Lam. 186. Dalt. 8. Crompt. 196. a Num. 1.

He is called Commissioner of the Peace, by reason he is Authorized by the King's Commission, so *Custos Pacis*, or Keeper of the Peace, the same with *Justiciarius Pacis*, or Justice of the Peace. And the Constitution of Justices of Peace is Inherent, and Inseparable from the Crown, Stat. 27. Hen. 8. And this Power cannot be Transferred, 20 H. 7.

His Warrant is not to be disputed by the Constable for any thing wherein he hath Jurisdiction of the Cause, Dalt. 8. Chap. 14. 7. 8. &c.

In some Cases the Testimony of a Justice of the Peace is of as great Force, and in some Cases greater than an Indictment of 12 Men upon Oath.

and their Clerks.

3

Oath, viz. In Case of Presentments of Highways, Force, Riot, *Dalt.* 9. *Lamb.* 65.

A Justice of the Peace being Assaulted, may Commit the Party so offending to prison, *Dalt.* 371. *Lamb.* 124. *Crompt.* 68. a. If a Justice see one about to make an Affray, and charge him to keep the Peace, and he answers he will not, he may bind him to his good Behaviour, *Dalt.* 294.

A Justice of the Peace must proceed by Prescript of the Statute and Commission, *Dalt.* 22.

Where the Statute referreth the Tryal to the Justice's Discretion, it seemeth he may examine upon Oath, *Dalt.* 20. Every Justice of the Peace is a proper Conservator of Rivers within his County, *Lamb.* 189. And Justices of the Peace at Sessions are of equal Authority, *Lamb.* 385, &c. *Vide Crompt.* 122. a Nu. 33.

If a Felon be brought before a Justice of the Peace upon suspicion, though it appear to the Justice, he be not guilty, nevertheless he may not be set at Liberty, but so that he may come to his Tryal, *Lamb.* 223. *Dalt.* 389. *Cr.* 40. b. Nu. 20. Otherways it will prove a voluntary Escape in the Justice; for he is not to be delivered by any Man's Discretion, *Dalt.* 8. *Lamb.* 223.

CHAP. II.

What may be done by a Justice of Peace, Ex Officio, &c.

He may Record a Demurrer upon Evidence, *Lamb.* 339.

He may give Day to the Party to bring in Records, which is before other Justices, which is Plead by way of Justification, *Lamb.* 339.

In Absence of the King's Attorney, a Justice of the Peace may take Issue with one that Pleadeth a Pardon, that he is one of the Parties Excepted. *Lamb. 510.*

A Justice of the Peace may take Money for the Security of the Peace, *in deposito*, where Bail cannot be procured, and which, upon the Party so depositing the Money, breaking the Peace shall be forfeited to the King. *Just. Berkeley, 1 Cro. 446.*

If upon supposing an Indictment to be void, the Justices have discharged the Prisoner, paying his Fees, yet upon change of their Opinion, they may stay him any time before Judgment. *Lamb. 540.*

Justices of the Peace may inquire of all manner of Felonies at the Common Law, or given by any Statute, and of all manner of Trespasses against the King's Peace, and such Trespasses wherein Actions of the Case will lye for Trespasses or Deceit, and in the end of the Writ grounded upon the Case, It is contained, *Contra Pacem nostram. Crompt. 8. a. Num. 25.*

Defaults against the Statute of 3 Hen. 6. Chap. 11. For Levying of Wages for Knights of the Shire, are to be heard and determined by Inquiry for the King, or Action for the Party before the Justice of Peace. *Lamb. 512.*

A Justice of the Peace has no need to shew his Commission, by which he is made Justice of Peace, when he Justifieth the doing of any thing as a Justice, for he is Justice of Record, and the Commission remaineth with the *custos Rotulorum* of the same County, and he is called by Commission in open Assize, or Sessions. *Crompt. 120. b. Nu. 13. Lamb. 387.*

A Justice of Peace may have his Action of the Case against the Party that calleth him false Justice.

Justice of the Peace ; it also seemeth that he may be Indicted, for they may inquire of all Trespassers, where a Man may have his Action of the Case. *Crompt. 121. a. Num. 21, and 122. a. Num. 29.*

A Justice of the Peace, Certifying into the King's bench, that such a one broke the Peace in his Presence, the Party shall be put to his Fine, without a Traverse to the same. *Crompt. 132. a.*

A Justice of the Peace, who is of the *Quorum*, ought to be Resident in the County where he is a Justice of the *Quorum*. *2 Hlea. 5. Chap. 4. Crompt. 133. a. Num. 32.*

The Justices at *Newgate* sit by Virtue of 2 Commissions, Goal Delivery, and Oyer and Terminer, *4 Eliz. Chap. 2.* And where the same Persons are Justices of Goal Delivery, and Oyer, &c. They may sit the same Day, and Place, and inquire by the same Jury, yet the Entry of the Records must be several as the Indictment is, *Dalt. 168.*

A Justice of the Peace commandeth one by his Precept, under Penalty of 10 *l.* to be at the Quarter Sessions next ensuing it, and he appeareth not, no *Scire Facias* shall go forth more than if there had been a *Subpoena*, however it seemeth he shall be Attached to be at the next Sessions upon Contempt. *Crompt. 123. a. Num. 9.*

What one Justice of Peace may do by Power and Virtue of his Commission, without requiring to be joyned with another, or more in Acting, in what relates to his Office.

HE may cause all such as are fit, to Work in Harvest, or Hay-time, and after Licence them to go unto any other County.

He may Rate the Prizes of deceitful Malt, to be sold by 2 *Edw. 6. 10.*

He may compel one fit in his Discretion to be bound Apprentice, by 3 *Eliz. 4.*

He may it seems give Directions to Watchmen, Keepers, and Searchers of infected Persons. *Crompt. 126. b.*

He may cause to be Whipped Trespassers in Orchards, Corn, Hedges, or Woods, not able to give any Satisfaction. And it seems he may hear and determine by Examination, or otherways by his Discretion the Offences committed in Tile-making.

One Justice of Peace may command Vagrant Persons to Prison, if they will not serve.

He may upon his View of forceable detainer, Record it by 15 *Rich. 2. Chap. 2. Dalt. 81, 82.*

He may Punish Deceit in Cloth by Tenters, &c.

He may cause High-ways to Markets to be enlarged, and cleanked of Trees and Bushes. 13 *Edw. 1. Chap. 5.*

He may Punish Keepers of Places for unlawful Games, and the Players at those Games.

He may Punish Prophane Swearing in his Presence, made out by Testimony, or Conviction by the Party's own Confession.

and their Clerks.

He may Punish Offences in Watermen, and Transporters of Corn.

He may Punish Defaults of Collectors of Sheriffs Amercements, and of Bayliffs of the Hundreds, Soldiers that Purloin their Horle or Harnels.

He may prevent a Riot, stay it, and Commit them that are concerned in Acting of it.

One Justice of the Peace, upon Complaint may Commit till the Assizes, or Sessions, any Popish Recusant Convicted, above 18 Years of Age, under the Degree of a Baron; so far refusing the Oath of Allegiance. 7 *Jacob. 1. Chap. 8.*

He may cause to be set in the Pillory in the next Market-town, Persons Convicted of Breaking the Assize of Fuel, and not able to pay the Forfeiture, with a Billet, or Eggot bound to his Body. 7 *Edw. 6. C. 7.*

Quize whether one alone can Commit him,

He may cause an Unlicensed Ale-house-man openly to be Whipped after Conviction, where there is no sufficient Distress to pay the Penalties. 3 *Caroli 1. 3.*

He may upon View, or Proof by two Witnesses Warrant the Levying 20 *l.* Forfeiture for an Unlicensed Ale-house, to be given to the Poor.

One Justice may demand the Peace against another Man. *Lamb. 81.* And he may Punish Persons, going, or riding Armed, contrary to the Statute of 2 *Edw. 3.*

A Justice may inquire of *Felo de se*, hid, or cast into the Sea, where the Coroner cannot have the View of the Body, 3 *Inst. 55.* And he may send Writs for Fugitive Labourers, by 2 *H. 5. 6. 4. St. 1.*

He may take an Information out of the County against an Offender in the County. 1 *Cro. 213.*

A Help to Justices

So a Recognizance to Prosecute by Assent of the Parties out of the County, but cannot use Coercive Power, *Ibid.*

A Justice of the Peace inhabiting in the Hundred where one was Robbed, may if he be at *York*, or *London*, take the Party's Oath, being but an Examination, and no Act of Jurisdiction.

A Justice of Peace in *London* ought to send Felons to the Common Goal, not to the Counters. 1 Co. 120.

He may take an Indictment of Barretry, without a Special Commission. 2 Co. 32.

A Justice in open Court may alter the Panel of a Jury Sworn only for the King, 2 Co. 59.

One Justice of the Peace is sufficient to certify carrying of Corn from one Place to another, to sell against the Statute of Fore-stalling, joyned with the Customer.

He may Bind a Cheater to his good Behaviour, *Gr. Dalt. 63. 7 Jacobi (1.)*

He may Convict of Drunkenness, by 12 *Jacobi (1.) C. 7.*

He may Seize the Goods of Gypsies, within a Month after their Arrival, *Gr. By the 22 Hen. 8. C. 10.*

He may Record a Riot in his View, and Commit the Rioters, or bind them to their good Behaviour; but single, or alone proceed no further, *Dalt. 195.*

He may punish Spoilers of Fish-ponds, and cause their Nets to be cut and burnt. 17 *Rich. 2.*

He may take the Claim of a Horse Stolen. 31 *Elix. 12.*

He may Examine and Bind over unlawful Hunters in the Night time, *Gr. 1 Hen. 7. C. 7.* The like of taking or killing Conies in the Night-time. 22, 23 *Caroli 1.*

and their Clerks.

9

He may compel a Vintner to draw a Man Wine, who demands it, and offers Payment, 24 Hen. 8. Dalt. 242.

He may Convict of the Breach of the Lord's day, against Stat. 29 Carol. 2. And may allow of Cause for Travelling in a Boat on the Lord's-day, according to the said Statute.

CHAP. IV.

The Power of two Justices of the Peace, Acting jointly within the Compass of their Jurisdiction, by Virtue of their Commission and Office, &c.

TWO Justices of the Peace upon View of a Riot, or Rout, may Record the same, and with the Sheriff, or under Sheriff. 13 Hen. 4. C. 7. Crompt. 16. Num. 9. to inquire by a Jury, and fine the Rioters. Dalt. 195. Quere.

Two Justices on Complaint that a Servant departed before his Term ended, &c. Are to Examine, and Commit if they see Cause. See more of Labourers and Servants, of a Constable, &c.

They may Bind one to the Quarter-Sessions to Answer his Offence against a Penal-law. Lamb. 187. Vide Dalt.

They may Allow and discharge an Ale-house-keeper at Discretion.

There must be two Justices of the Peace for appointing Overseers for Woolen-cloth for a Year, &c. So to convene Persons fit to discover any Offence in the making deceitful Cloth.

They may Imprison for a Year, or less at their Discretion, Servants Assaulting their Masters; may compel Women to serve for such Wages, and manner as they think fit. They may Tax a Hundred towards the Relief of the Poor of a

Town within it, wherein the Inhabitants are thereby overcharged, and not able to keep their Poor; and they may Tax others of a County for the Relief of places Infected.

They may dispose of at Discretion all Forfeitures to grow and become due on the Statute of Rogues.

They may Assess all the Parishes within the Hundred, proportionably, towards Contribution for the Partys charged upon a Robbery.

They shall take Order to set poor Soldiers on Work, who cannot get Work, for want of Work, Tax the Hundred for Relief. 21 Jacobi C. 18.

Two Justices may Fine the Head-Officers in Burroughs and Market-towns, who are remiss in viewing the Weights and Measures, and break and burn those that are Defective; and Fine all Buyers and Sellers with unlawful Weights, at Discretion.

They may allow Surveyors, and their Servants to make Materials in another Parish for the Mending the High-ways where they are defective.

Two Justices, one being of the *Quorum*, upon Complaint of the Church-warden, may Convene before them the Bayliff and High-constables, and take their Accounts of Forfeitures and Defaults Estreated concerning High-ways.

Two Justices of the Peace in London, may determine the Matter of Buildings, and Inhabitants there. 34 Eliz. c. 6.

They shall allow Scavengers under their Hands, to Confirm a Tax of Constables, Church-warden, and Surveyors, &c.

Two Justices of the Peace may take an Oath of the under Sheriff, Bailiffs, &c.

Two Justices of the Peace, one being of the *Quorum*, may Commit any Person under the Degree

and their Clerks.

11

gree of a Baron, being above 18 Years of Age for refusing to take the Oath of Allegiance, &c.

They may take the Submission of Persons brought up in a Jesuites Colledge, &c.

They may, one being of the Quorum, Bail a Person Arrested for Manslaughter, Felony, or on Suspicion of them.

They may take Order about a Bastard-child layed in the Parish, &c.

They may Administer the Oath of Supremacy, and of the Office, to Bailiffs of Franchises.

They may punish Destroyers of the King's Game, or such as keep Hunting-dogs, &c.

They may sign a Testimonial of a Servant turned out of Place on one whose Master is dead.

Two Justices may Convict any one of Opposing the Execution of the Statute against Planting Tobacco in England, &c.

So to Warrants destroying it, and Convict Refusers to Assist. &c.

They may license poor People Diseased, to Travel to the Bath for Remedy, &c.

They may send to a Work-house Prisoners brought before them by the Constables, according to the Statute, &c.

Two Justices, one of the Quorum may take an Indictment and Inquisition, &c.

Two Justices of the Peace may warrant Constables in Searching Houses for Setting-dogs, and Nets for taking Partridges, &c.

They may commit for 3 Months Shooters of Partridges contrary to the Statute, &c. Unless each so Offending pays 20 s. They may proceed upon Offences against the Statute of Hedge-breaking, &c. Done to one of them.

Two.

A Help to Justices.

Two Justices of the Peace, with the Bishop and Chancellor, may call Collectors of Hospitals to Account, 124 *Edw. 3. c. 13.*

They may bind over and suspect of Counterfeiting Tokens and Letters, 29 *Hen. 8. c. 11.*

They may search for Popish Books and Refuges, 3 *Jacobi 1. c. 5.*

They may Punish Defaults in the Overseers of the Poor, 15 *Hen. 8. c. 11.*

They may Punish Offenders in disturbing the Execution of the Statute against Rogues, 15 *Hen. 8. c. 11.*

They may send to the House of Correction Persons about to leave their Family to the Parish, 7 *Jacobi 1. c. 4.*

They may Examine Offenders in Buck-Halls, against the 19 *Hen. 7.* At the Sessions, &c.

They may Warrant the Church-wardens and Overseers to Levy Arrears of the Rates for the Poor, 10 *Hen. 8. c. 11.*

Two Justices of the Peace, one being of the Quorum, may Reform false Measures, or Neglect of Clarks of the Market, 15 *Hen. 8. c. 11.*

Two Justices of the Peace to Convide of not Reading Common-prayer, 14 *Caroli 2. chap. 1.*

They may Bind over to the Assizes, or Sessions, one suspected of Deceit, by Counterfeit Letters, and proceed in like Nature in some other Matters of lesser Moment; and for many things more fully set down and Explained, vide the Offices of Constable, Church-warden, Overseer of the Poor, Surveyors, &c.

CHAP. IV

What may be done by Three Justices of the Peace; and
James in the Execution of their Office, according
to several Statutes, &c. Impowering and directing
them thereto.

Three Justices of the Peace may call unto Ex-
amination before them, the bestowing of
Money in mending the Highways, by the Sta-
tute for mending Highways, or Bridges, 14 Eliz.
5. 38 Eliz. 18.

They may, one of them being of the Quorum,
License Glass-men, to Travel without Begging
in the County, 39 Eliz. 6.

They may take the Oaths of two Witnesses of
Depraving the Sacrament, 1 Ed. 6. 17.

They may License under their Seals, one of
them being of the Quorum, Badgers and Drovers,
5 Eliz. 12.

They may Confirm By-laws in Norfolk for Nor-
wich Street with others, &c.

They may Consent to a Petition, by 13 Ca-
roll 21.

They with the Bishop and his Chancellor may
Examine the Employing the Poor's Money, &c.
14 Eliz. 5. 39 Eliz. 10.

They may, one of them being of the Quorum,
take Examination of those that Maim Horses,
Cattle, or that destroy Nurseries, or other young
Trees, and throw down Inclosures in the Night
unlawfully, &c.

They may License Buying of Corn, to carry
from one Port to another. 5 Eliz. 12.

CHAP. VI.

What may be done by a Justice of the Peace, Con-
junct in the Execution of their Office, as afore-
said, &c.

FOUR Justices of the Peace may Discharge under
Seal an Apprentice Hardly, and Illused.

1. *Eliz. Dalt.* 120. They may Tax the Inhabitants, and make Col-
lection and Overseers for the Repairing a Bridge,
where it is not known who ought to Repair it.

2. *Hen. 8. C. 5.* They may Seize a Refusant's Arms and Armour,
Ammunition, &c. 3. *Jacob. 1. c. 1.*

4. They may consent with the Sheriff, or Gaoler
of a Corporation, for the removing of such Person
that are Prisoners, or others.

5. They may License a Refusant to Travel above
5 Miles with the Assent of the Bishop, or Lieuten-
ant, &c. 13. *Eliz. 2. Jacob. 1. c. 1.*

They may Remand by Warrant under Seal, Ma-
lefactor, flying into England, &c. 1. *Jacob. 1. c. 1.*

Dalt. 541. And indeed thus Conjoined they have
great Power in the Execution of the Office of the
Peace, where Matters lie within their Jurisdiction,
as to what relates to the Conservation of the Peace,
and keeping good Order in the Government, and
saving the Subject from Wrongs.

They may License Buying of Corn, to carry
from one Port to another. &c. 12. *Eliz. 1.*

CHAPTER VII.

What Six Justices of the Peace, Composed in the Execution of their Office may do, &c.

SIX Justices, one being of the *Quorum*, may Execute the Laws of Commissioners of the Sewers. *Dalt.* 229.

They may appoint a Common-goal for the Sheriff to have the Custody of it. 13 *Hen.* 8.

Six Justices in Commission of the Peace, with the Justices of Assize, by 12 *Rich.* 2. *C.* 1.

Eight Justices of the Peace, beside the Lords, by 14 *Rich.* 2. *c.* 11. So two Lawyers in every County. 28 *Edw.* 3. *c.* 2.

The greatest part of the Justices of the Peace, to order the House of Correction in every County.

The greatest part to Tax other PARISHES for the Poor, where there is an Insufficiency in the Parish, or Hundred. 43 *Eliz.* *c.* 2. So to employ the Overplus of the Maimed Soldiers Stock to the Use of the Poor. 43 *Eliz.* *c.* 9. And to Tax for the Relief of Maimed Soldiers. So to Accounts of Treasurers for Maimed Soldiers.

CHAPTER VIII.

What is to be considered and meant by the next Justice in a County, &c.

THE next Justice may License Mariners to Beg, having been Shipwrecked. 39 *Eliz.* *c.* 4. *Ambl.* 303. *Dalt.* 209, 227.

Where

Where the Statute ordereth the Justice most nigh to do Execution, &c. As in 13 Hen. 4. Of Riots under the Penalty of 100 L. for Forfeiture, he is excused, if another Justice, (not next) do the Office.

He may chuse Fishermen to be Mariners by the King's Commission. 3 Eliz. c. 5. Lamb. 359. Dalt. 139.

The next Justice is to send a Prisoner to a Work-house, &c. 25 Car. 2.

CHAP. IX.

Of certain Forfeitures by Statute given to 8. Justices of the Peace.

FOR every Day he sits upon the Statute of Labourers, not exceeding 3 Days, 3 s. So the Mayor, or Head Officer in Corporations, &c. Out of the Fines arising on the Stat. 10 s.

For every Day which Sessions is kept, which may be 2 Days, they shall have out of the Fines coming to the Sheriff's Hands, by reason of the Sessions, 4 s. and their Clerks 2 s.

Two Justices of the Peace shall have a part of defective Cloth Seized and Forfeited, 3 Edw. 6. Lam. 359.

Justices who examine Offences of Deer-Hays, and Buck-Stalls shall have the tenth part of Forfeiture. 19 Hen. 7. c. 12.

C H A P. X.

The Fees of Justices of the Peace, or such as they ought to take in the following Cases, according to Crompt. 176. 2. and Dalt. 78.

FOR a Recognizance of the Peace, 2 s.
 For a Recognizance to Bail a Prisoner, 2 s.
 For a Superfedeas of the Peace, 2 s.
 For a Warrant of the Peace Sealed, 2 s.
 For a Release of the Peace, 2 s.
 For a Warrant not of the Peace, 4 d.
 For a Recognizance of an Ald-house-keeper, 12 d.
 For the Inrolment of a Deed, the Land not exceeding 40 s. per Annum. To the Justice one Shilling, and to his Clerk one Shilling. But if the Land exceed 40 s. then 2 s. 6 d. to the Justice, and the like to his Clerk.

C H A P. XI.

Where a Justice of the Peace lies liable to be Fined for Neglecting, or Transgressing in his Office or Duty, &c.

IN the Case of Bailing one not Bailable, and refusing to Bail one Bailable, and Detaining him, he lies liable to a Fine, and to pay double to the Prisoner. 5 Ed. 1. C. 15. 23 Hen. 6. C. 10.

In the Statute against Riots, if he does not Execute it, he is Finable 100 l. 13 Hen. 4. So in that of forcible Entry, 10 l. 8 Hen. 6.

In neglecting to take Order about a House of Correction, 5 l. to go towards the building it. 1 Jacobi (1.) C. 4.

Exer-

18 A Help to Justices,

Exercising his Office before the Oath taken.
Dalt. 14. For not being present at the Annual Tax
 of Servants Wages, 10 l. *3 Eliz. c. 4.*

If a Justice of the Peace does not in 40 Days
 certify unto the King's-bench Presentments of
 Extolling the Pope's Power, he forfeits 100 l.
3 Eliz. C. 1.

For Imbeceling, wilfully Raising, maliciously
 Inroling an Indictment not found, changing an
 Indictment of Treasons into Felony, is Fine and
 Imprisonment, and loss of Office, *Lam. 631.*

CHAP. XII.
Where a Justice of the Peace lies liable to Punishment.

HE may be Imprisoned for taking Bond in his
 own Name, and not in *Domino Regi*, the Mat-
 ter concerning the King, 33 H. 8. C. 9.

For Conspiring with another to Indict a Stranger
 at the Sessions, otherwise as a thing done by him
 as Judge. *Crompt. 122. a. Num. 32.*

Where a Justice fails to do Justice, he may be
 put out of Commission, and Punished. 4 Hen. 7.
 C. 12. *Crompt. 120. H. Num. 6. Lam. 370.* So for
 refusing to take Surety for the Peace, when it
 is tendered. *Vide Crompt. Jurisdiction of Courts.*

For Embeceling and Raising Records, he
 forfeits his Office, and may be Fined, *Vide*
antea.

CHAP. XIII.
Of the Power of Justices of the Peace.

C H A P. XIII.

Some Directions in making out, or granting Warrants by a Justice of the Peace, and how to be Executed.

A Warrant in Writing must be under the Justice's Hand and Seal, his Hand at least. *Dalt. 460. Lamb. 85. 83.* However it is better if it be Sealed, as the usual way is. *Dalt. 460.*

A Warrant of the Peace, or good Behaviour must contain the special Matter. *Dalt. 460. Lamb. 87.*

A Warrant for Treason, Murder, or such like capital Offence, need not contain the special Matter, or Cause. *Dalt. 160. Crompt. 148. 2.*

If a Justice of the Peace, being out of the County, Grants his Warrant to be served in the County, the Officer making the Arrest, must carry the Party before some Justice of the Peace within the County. *Lamb. 91. Dalt. 461.*

A Justice of the Peace may make his Warrant to come before himself, yet in a Warrant for the Peace, the usual manner is otherways. *C. 5. 59. Dalt. 461.*

Upon a General Warrant, an Officer may chuse to go before what Justice he pleases. *Dalt. 59. 5. Co. 59. B.*

If a Justice of the Peace make a Warrant beyond his Authority, it is not disputable by a Constable, or other Officer, but must be obeyed, unless it be to do a thing out of the Justice's Jurisdiction in a Cause where there is no Judge; for if in this latter Case the Officer Execute the Warrant, he is punishable. *Dalt. 8. 465. Lamb. 85. Crompt. 147. B. Lamb. 91, 92. Dalt. 365.*

A Warrant directed to two jointly to Arrest a Party, he may be Arrested by either of them.

A Warrant made in the King's Name, ought to be made to all Ministers, as well within Liberties as without. *Dalt.* 355.

Warrants may be made either (1.) in the Name of the King, or (2.) in the Name of the Justice, and either of them must be testified by the Justice from whom they issue, or (3.) with out stile by Supercription of the Justice. *Dalt.* 383.

See more of Warrants in the Office of Constable in this Book, and how they are to be Executed.

Sessions held by one Justice of the Peace is not good, though it were Summoned by two, and Sealed by their Names, but two sufficient Justices Warrants Sealed (*Quorum, &c.*) *Vide Dalton, &c.*

Quarter Sessions are to be held 4 times in the Year, viz. The first Week after St. Michael, The Epiphany, the close of Easter, and after the Translation of Thomas the Martyr, which is July 7. 2. *Edw. 3. Chap. Lamb. 397. Dalt.* 331.

Justices of the Peace shall hold their Sessions 4 times in the Year, viz. One within the Octaves of Epiphany, the second in the second Week of Lent, the third between the Feasts of Pentecost, and St. John Baptist, the fourth within the Octaves of St. Michael. 35 Edw. 3. Chap. 12. *Dalt.* 331. *Crompt.* 123. B. Nu. 15. &c.

The place where Sessions is to be held is Arbitrary, and therefore though by Summons they are to be kept in one place, yet they may be kept in another, but then there can be no Amercement for Default of Appearance. *Lamb.* 383. 384. But they must be kept within the County. *Dalt.* 331.

So in a Town Corporate, but not to intermeddle.

Two Sessions at one time for one County Lawfully Summoned at two Places are good, but Appearance at one shall excuse the default of an Appearance at the other, and Presentment taken before either of them, shall stand good, *Lamb. 384*. But Punishable without notice.

At a General Sessions, all Matters Enquirable by Justices of the Peace, either by Statute, or their Commission ought to be given in Charge; otherwise at Special Sessions. *Lamb. 612*. And may be held 3 Days. 606. 12 R. 2. *Chap. 10*.

At the Quarter Sessions, Officers and Ministers of the Court, and Jurors of the County owe their Attendance. *Lam. 386*.

Jurors not appearing according to Summons, are Punishable for loss of Issues, the usual part of Escheats.

Constables making Default are Fineable.

The Justices of the Peace, if need require, may keep a Special Sessions by Virtue of their Commission, or by the Statute. 1 Hen. 5. *Chap. 4*. *Lamb. 623*.

All Matters within the Commission, or Statute may at a Special Sessions of the Peace be given in Charge, yet they are at liberty to give in Charge, either all, or any of them. *Lamb. 623, 624*.

If two Justices of the Peace, one being of the *Quorum*, make a Precept to the Sheriff for the holding a Sessions at such a Place, and Day, and to return a Jury before them, other Justices cannot by their Superfedeas Inhibit it. *Crompt. 126*. B. But the King by his Writ of Superfedeas may Discharge it. *Ibid.*

All that come to the Sessions for publick Service, or upon Compulsion, upon Complaint, and Examination of the Matter upon Oath shall be freed from any Arrest upon Original Process. *Lamb. Cr. 190. D. Lamb. 402.*

Indictments are many times Tried the same Sessions wherein the Persons were Indicted, yea the same Day before Justices of Goal Delivery, or Justices of Oyer, &c. *Dalt. 537. 1 Cro. 319. 438. 448.*

But in Case of Felony it seems very reasonable to be deferred to the next Sessions, upon Cause shewn; it being so in an Indictment of Nuisance generally, and life is more to be valued and favoured, &c. *Dalt. 537.*

Many things of great Import cannot be done but at the Sessions, and some but at such a particular Sessions. *Dalt. 537.*

Of the first sort are the Discharge of Apprentices Ill-used, Badgers, Licensed Officers Sworn (after the Sacrament received proved) and declaring against Transubstantiation, &c. *Dalt. 538.*

The second is taking Accounts for Maimed Soldiers of the Treasurers, and for Charitable Uses, &c. *43 Eliz.* in Easter Sessions, the Rates of Wages in Easter Sessions, and 6 Weeks after. *Dalt. 538.*

Making Order in the Chamber after the Adjournment of the Sessions, as for the Bastard-Children, and Settlements, and some other Things and Matters. But not to be tedious to the Reader, I shall bear close Treating of Matters of this Kind, and proceed to others Executed.

CHAP. XIV.

Of Mittimus's, and their Form, and what is to be considered in them, &c.

A Mittimus must contain the name of the Party, or Parties, his, or their Offences, and the time of Imprisonment, that it may appear whether the Prisoner be Bailable, or not. *Lamb. 297. Dalt. 439, 406. Cramp. 152. A. Num. 11.*

If one be Committed without Bail, or Mainprise, and the Cause be expressed in the Mittimus, and yet is Bailable, other Justices may Bail him; yet Quere, seeing their Authority is equal. *Dalt. 439.* But if no Cause be expressed, other Justices shall not do well to Bail him without the Privy of the first Justice, or Justices; because the Cause of Commitment probably may not be Bailable. *Dalt. 439.*

If the Mittimus be General, the other Justices that Bail must take notice at Peril. *Ibid.*

There is a Writ called a Mittimus, for removing Records of Outlawry, Judgment in the King's bench, &c. Unto the common Place, or an Act of Parliament unto the King's bench, &c. See of this. *1 Cro. 134, 298. Hob. 111, 135.*

The Form of the Mittimus for

To send Rioters to Goal. *Lamb. 321.* To send Shooters in Pieces to Goal. *322. Dalt. 513.* To send upon Forcible Entry, &c. *Lamb. 320.* To send to the House of Correction. *Dalt. 513.* To send an Ale-seller without License. *Dalt. 512.* To send a Reputed Father of a Bastard. *Ibid.*

CHAP. XV.

Of Recognizances, what they are, and how, and in what Cases to be taken by a Justice of the Peace, &c.

A Recognizance of a Bond of Record, Testifying the Recognizor to owe a certain Summ of Money to some other, and that Acknowledgement of the Summ is to remain of Record, and none can lawfully take it, but a Judge or Officer of Record. *Dalt.* 257.

Every Recognizance taken by a Justice of the Peace must be made by these words (*Domino Regi*) and great Care to be had in so doing: for it is Inevitablement for any Person to take it otherwise. For these Words, *Domino Regi* import and Imply, the Recognizor is bound to our Lord the King, and not to any other. 23 Hen. 7. *Chap. 9. Cromw.* 196. B. Num. 11. *Lamb.* 162. *Dalt.* 276.

Sureties in Recognizance ought to be Substantial Men, and they must be two besides the Party himself. *Dalt.* 276. *Lamb.* 101.

It is in the Discretion of a Justice of the Peace, if he take a Recognizance, *Ex officio*, to appoint the Number of the Sureties, their Sufficiency in their Goods and Lands, and the Summ of Money, and how long the Party shall be Bound. *Dalt.* 275. *Lamb.* 100.

Recognizance for the Peace, unless the words be expressed, for Keeping of the Peace is void. *Lamb.* 103. *Dalt.* 264, 276. *Coram non Iudice.*

So it is if a Recognizance be that the Recognizor shall not Beat or Maim. B. without the Expressing the keeping the Peace in it. *Ibid.*

A Recognizance expressing no Time of Appearance, but generally to keep the Peace is good. *Ibid.* And so these few may serve to give a Light into others; for they are many; and in the Main they tend to one and the same thing, though in Circumstances many.

CHAP. XVII.

Of Sessions and Matters properly to be done, &c. by Justices therein, &c.

THE Session is the Assembly of any two, or more Justices of the Peace, one being of the *Quorum*, at a certain Day and Place within the Limits of their Commission, appointed to Enquire by a Jury, or otherwise to take Knowledge, and thereupon to hear and determine according to their Power, of Causes within their Commission and Statutes referred to their Charge. *Lamb. 378.*

A Session held without Summons is good, but in such Case none shall lose any thing for Default of Appearing. *Lamb. 380, 381.*

Summons of the Sessions is usually by Precept Written to the Sheriff, and by him to be returned at Sessions. *Lamb. 381.*

Precepts for Summoning the Sessions, may be made by any two Justices of the Peace, one being of the *Quorum*, but not the *Custos Rotularum* alone; and Summons cannot be discharged by Superedeas of all other Justices, but by Superedeas out of Chancery. *Lamb. 382, 383.*

C H A P. XVIII.

The Justice of Peace his Clerk, &c. his Business relating to Warrants, Hue and Cry, Order for Bastard Children, Recognizances, Mittimus's, Releases, Bailments, Superfedeas, &c. in due Form, Latin and English, and other things, with Observations or Notes thereon for better Information.

Instructions for Clerks to Justices of the Peace, containing many necessary Points, or Precedents of Warrants on several Occasions directed to Constables.

As for Warrants grantable by Justices of the Peace, they may be stiled and made after several manners, viz.

1st. In the Name of the King, and yet the Test may be under the Name of the Justice, or Justices of Peace who grant them.

2^{dly}. Or they may be stiled and made only in the Name of the Justice so granting.

3^{dly}. Or else be made without any such Title, and only under the Test of the Justice of Peace, or only subscribed by the Justice, if the cause requires. But not having room for every Particular, the Nature of things in this case requires, in so small a Book, I shall only set down what are most common and useful in their order.

The Form of a General Warrant for a Misdemeanor.

Whereas *John Doe*, one of the Justices of the Peace, *do* to the Constables of *D.* in the said County, and to every of them. These are to will and require you, in his Majesty's Name, straightly to charge and com-

mand you upon sight hereof, to attach, and forthwith to bring before me the Body of J. P. Baker, to answer such Matters of Misdemeanour in his Majesties behalf as shall be objected against him; and hereof fail not at your Peril; Given under my Hand, &c. (or) Dated, &c.

The Form of a Warrant for the good Behaviour to the Constables, &c.

Backs. Forasmuch as A. B. of your said Town, is not of good Name, or Fame, nor of honest Conversation; a Rioter and Disturber of the Peace of our Sovereign Lord the King, as we are given to understand by the complaints of sundry credible Persons, Therefore on the behalf of our Sovereign Lord the King, we straightly charge and command you, or either of you, immediately upon sight hereof, you or one of you require the said A. B. to come before me or some other of his Majesties Justices of the Peace, to find sufficient Sureties and Mainprize as well for his good Abearing towards our said Sovereign Lord, and all his Liege People, until the next Quarter-Sessions to be holden in the said County, as also for his Appearance then and there; and if he shall refuse so to do, that then you him safely Convey, or cause to be Conveyed to the common Goal of the County aforesaid, or to the next Goal of His Majesty's in the said County, there to remain until he shall willingly do the same. So that he may be before the Justices of the Peace of our said Sovereign Lord the King within the said County, at the next general Sessions of the Peace to be holden for the County, and there to Answer our said Sovereign Lord

for his Contempt on this Behalf. And see that you certifie your Doings in the Premises to the said Justices in the said Sessions, bringing them thither this Precept with you. Given at B. under my Hand and Seal the fourth Day of December, &c.

The Form of a Warrant immediately in the King's Name, Grantable by Justices of the Peace.

William by the Grace of God, King of England &c. To our Sheriffs of our County of *Oxford*, the high Constables of the Hundred of *R*—The Petty Constables of the Town of *B*—And to all, and singular, our Bayliffs, and other Magistrates in the said County as well within Liberties, as without, Greetings, forasmuch as *L. B.* of *C* hath come before Sir *W. M.* Knight and Baron, one of our Justices of the Peace within the said County, and hath, &c. Concluding in the Justices Name thus. Witness the said *W. M.* at *B.* the — Day of — &c.

Here Note, that wherever the Warrant is made in the King's Name, as afore, there it seemeth it ought to be directed to all Ministers, as well within Liberties as without; for the King is made a Party; and so it may be done. It seemeth in all other Warrants, especially for Felony, or for the Peace, or good Behaviour, &c. because it is the Service of the King, and no Franchise or Liberty shall be allowed, or hold place against the King, *Br. Franch.* 21. However it is further held that the Justices of the Peace of the County may not Intermeddle in any City, Town, or Liberty which have their proper Justices, *Vide Dalt. Chap. 6. Folia 25.* Where you will find it set down more largely.

The Form of a Warrant for the Peace.

Surrey. To the Constables of C. &c. and to either of them.

Forasmuch as A. B. of your said Town, Yeoman, hath required Sureties of the Peace against T. L. of your said Town, Labourer, and withal hath taken his Corporal Oath before me, that he, requireth the same, not for any private Hatred or Evil Will, but simply that he is afraid of his Life, or the Hurting or Maiming his Body, or the Burning of his Houses; These are therefore to Will and Require you in His Majesty's Name, straitly to charge and command you, that immediately upon the sight hereof, you, or one of you require the said T. L. to come before me, or some other of His Majesty's Justices of the Peace within the said County, to find sufficient Sureties, as well for his Appearance at the next Quarter Sessions of, &c. to be holden for this County; as also that the said T. L. shall in the mean time keep His Majesty's Peace as well towards his said Majesty, as towards all People, and especially towards the said A. B. and that if he shall refuse so to do, that then immediately you do convey the said T. L. to the common Goal of the said County, there to remain until he shall be willing to do the same, and see that you certifie your Doings in the Premises to the Justices of the said Sessions, and have there this Warrant. Dated at, &c.

The Form of a Warrant to search for Stolen Goods.

Com. Surrey. To the Constables of R. &c. and to either of them.

Whereas Complaint hath been made to me W. C. Esq. one of the Justices of the said County,

by L. G. of C. That upon *Tuesday* Night last, he had Feloniously taken from him certain Goods [here name them] And that he is given to understand that there are divers Parcels of such Goods in the Hands, or Houses of divers suspected Persons within your Town: These are to Will and Require you, and in His Majesty's Name, straitly to Charge and Command you, that immediately upon the receipt hereof, you make diligent search in all and every such suspected Houses, and Places within your Town and Parish, as you, and this Complainant shall think convenient, and if upon your said Search, you find any of the said Goods, or any other just Cause of Suspicion, that then you bring all such suspected Person as you shall find, together with the said Goods, before me, or some other of His Majesty's Justices of the Peace for the said County, to make Answer thereto, and hereof fail not at your Peril, Dated, &c.

The Form of a Warrant to search after a Robbery Committed, directed to the High Constables.

Whereas there have been of late many Robberies committed about D. Now for the better finding out such Lewd Persons, we whose Names are here under-written, being His Majesty's Justices of the Peace for the County of *Middlesex*, have thought fit, and do hereby Will and Require you in His Majesty's Name, that forthwith you direct your Precepts to every Petty Constable within your several Hundreds, Commanding them to make Search in all Inns, Ale-houses, and other suspected Houses within your Precincts; for all such Persons as are Masterless, or out of Service, as also for all Idle, Vagrant, wandering Rogues, Beggars, and other

ther

other Persons: And further, that they the Petty-Constables within the Precincts, do take Examination and account of all those, and such other Persons as be common Ale-house-haunters, or which expend their Money in Riot, or which do not Labour for their Living, and have not wherewith to Maintain them, and that the same Searchers be holden all over your Hundreds the same Night, and at such other several times, as in your Discretions shall seem meet. And if any such Persons shall be found in the same Searches, and that upon yours, or the Petty-Constables, Examination taken of them, or any of them, there shall be found any Cause of Suspicion in them, or any of them, that then they bring the said Persons so suspected before us, or some one of us, or some other of the Justices of the Peace of this County, to be further Examined in the said Causes, and to be further dealt withal according to Law and Justice. And for the better doing hereof, we require you to Command in His Majesty's Name, that every Petty-Constable within their respective Precincts, do Require and Charge two chief discreet Head-boroughs in every Parish to Assist the Petty-Constable in this Service. And hereof fail not at your Penalty. *Given Under the Great Seal of Great Britain the 22nd of June 1688.*

The Form of a Warrant for a Person who hath dangerously Hurt, or Wounded another.

Surrey. To the Constables of C. &c.

Forasmuch as I am Credibly informed that G. G. of your Town, Carpenter, hath now, or lately dangerously Hurt, or wounded one G. F. of your said Town, Brick-layer, by a Blow, or Blows which he hath given to the said G. F. on the Face and Head, &c. So that the said G. F. is in danger of Death thereby. These are therefore

A Help to Justices,

in His Majesty's Name, straitly to Charge and Command you, that immediately upon sight hereof, you, or one of you do bring the said C. G. before me, or some other of His Majesty's Justices of the Peace of this County, to find sufficient Sureties, as well for his Appearance before His Majesty's Justices at the next General Goal-delivery to be holden for the County, thence, and there to Answer unto the Premises, and to do and receive therefore that which by the Court shall be Enjoyned him, as also that he the said C. G. shall in the mean time keep the King's Peace towards His said Majesty, and all his Liege People, and especially towards the said G. F. and hereof fail not at your Perils, Dated, &c.

The Form of a Warrant for a Reputed Father of a Bastard-child.

Surrey. To the Constables of P. &c.

Whereas Complaint hath been made unto me L. C. Esq; one of His Majesties Justices of the Peace for the said County, by M. G. of your Town, single Woman, that she is gotten with Child by R. B. also of your said Town, Barber. These are therefore to Will and require you, and in His Majesty's Name straitly to Charge and Command you, and either of you, that immediately upon Receipt hereof, you Attach the Body of the said R. B. and thereupon bring him before me, or some other of His Majesty's Justices of the Peace for the said County, to find sufficient Sureties, as well for his Appearance at the next General Sessions of the Peace to be holden for this County, as also for his good Behaviour towards His Majesty, and all his Liege People in the mean time, and hereof fail not, as you will answer the contrary at your Peril, Dated, &c.

C H A P. XIX.

An Order of the Justices of Peace for a Bastard-child.

The Order of L. C. Esq; and R. G. Esq; two of His Majesties Justices of the Peace for the County of S. made for the Relief of the Parish of C. of the said County, for the keeping of E. a Bastard-child Begotten by R. B. of C. &c. On the Body of M. G. &c.

Imprimis, Upon the Examination of the said M. G. duly by us taken; we do find that the said R. B. is charged to have divers times Bodily and carnal Knowledge, between such Times, (Here name the Times) and to be the only Father of the said Bastard-child, &c. And therefore we do Order and Adjudge him the said R. B. to be the Reputed Father of the said Child.

We do further Order as followeth.

First, That the said M. G. shall keep her said Child till it come to 8 Years of Age.

Secondly, That the said R. B. upon notice of this Order, shall after such Notice pay unto the Hands of one of the Overseers of the Poor of C. for the Time being, after the Rate of 2s. 6d. every Week, to be paid Monthly every Year, towards the Relief of the said Child, until it come to 8 Years of Age.

Thirdly, That after the said Child shall come to the Age of 8 Years, &c. That the said R. B. pay to the Overseers, &c. Five Pounds towards putting out the said Child to be an Apprentice, &c.

Fourthly, That the said R. B. presently give good Security to one of the Overseers, &c. To perform this our Order.

Note, that by altering the Names, and Sum, as the Order in that Case shall be made. This Order in Form with the Variation of the Town,

A Vow to Justices,

and County, may generally serve on this Occasion.

The Form of a Warrant for a Fugitive Servant.

Middlesex. To the Sheriffs, &c.

Whereas G. C. being Lawfully Retained in Service with M. B. of D. &c. is departed from his said Master's Service before the end of his Term, without his Master's Leave, or Licence (or without any reasonable Cause) contrary to the Laws and Statutes of the Realm in this behalf provided: These are therefore to Command you, and every of you, that you, or some of you do Attach the Body of the said G. C. and bring him before me, or some other of His Majesty's Justices of the the Peace, to find sufficient Sureties, well and faithfully to serve his said Master according to the Covenant between them made. And if he shall refuse thus to do that then you cause him to be conveyed safely the Common-goal of the County aforesaid, there to remain till he shall be willing to do the same, and see you certify such your Doings at the General Quarter-Sessions of the Peace, to be held for the said County. Given under the Hand of me W. B. one of His Majesty's Justices of the Peace within the said County, Dated, &c.

Or this, That if the said G. C. is willing his said Master to serve again, you do cause him to be delivered, and if that to do he shall refuse, that then you cause him to be conveyed to the Goal, &c.

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And sheweth Bind me to give Evidence.

On behalf of the King in the said County of Warwick.

Sheweth To the Constables of R. &c.

These are in His Majesties Name, to Charge and Command you, or either of you, that immediately upon sight hercof, you, or some of you do cause to come before me, or some other of His Majesties Justices of the Peace for the said County, the Person hereunder named, to the end that they, and every of them may be bound to make their Personal Appearance at the next General Goal delivery (or Quarter-Sessions) to be holden for this County, then, and there to testify their, and every of their Knowledge concerning certain Felonious Acts committed by one D. D. now Prisoner in the *Marshalls* Prison in Southwark, the Common Goal for the County aforesaid, and hereof fail not at your Parol, Dated, &c.

The Form of a Hue and Cry after Robbery, &c.

To all Constables and others, His Majesties Officers, as well within the County of *Warwick*, as elsewhere within the Realm of *England*.

Whereas Complaint hath been made unto me To wit, one of His Majesties Justices of the Peace within the County of *Warwick*, by J. C. of D. &c. Grafter, that upon Wednesday Night last, being the 10th. of October Instant, he was Robbed of one Hundred Pounds in Monies numbered, by two Foot-paddes on the Road, or Kings Highway, between D, and E, in the Day time, and hath Cause of Suspicion of A. B. and C. B. two Lewd Rogues. Here desireth their Persons and Apparel, Setting down all such Marks as they may be known by. These are to require you, and every of you

you, to make Search within your several Precincts for the said A. B. and C. B. And also to make Hue and Cry after them from Town to Town, and County to County, and that as well with Horse-men as Foot-men, and if you shall find them the said A. B. and C. B. both, or either of them, That then you carry the Party, or Parties so taken, before some one of the Justices of the Peace within the County where he or they shall be taken, by him to be dealt with according to Law.

And thus you may do, putting one, two, or more Names in, according as the Case requires, whether a Hobby on the High-way, or a Felony and Burglary committed in a House, or such like, in Barns, Stables, Cell-houses, Stealing of Horses, or other Cattel, always describing the Parties to the Hue and Cry. So that they may be known, as also the things taken, that if the whole, or any part be found about them, or in their Possession, the may be known and brought as a Testimony against them upon Examination.

The Form of a Warrant to Attach a Felon, or for Felony.

Essex. To the Constables of D. &c.

Whereas a Complaint hath been made unto me by W. W. That of late he hath had certain Goods Feloniously taken from him; and that he hath in Suspicion one L. C. of your said Town. These are therefore to Will and Require you, and in His Majesties Name straitly to Command you, and every of you, that immediately upon the receipt hereof, you do Attach the Body of the said L. C. and thereupon to bring him before me, to Answer the Premises, and hereof fail not at your Perils, Dated, &c.

CHAPTER. XX.

A Warrant for the Overseers of the Poor to give up their Accounts.

Serje. To the High Constable of the Hundred of Br. &c.

These are in His Majesties Name, to Charge and Command you forthwith to give notice to the Church-wardens, and other Overseers of the Poor of every Parish within your Hundred, that they do Personally appear before us at Kingston upon Thames, at the Sign of the Swan, on Thursday the 29th. of December next coming, by 10 of the Clock in the Morning, or Forenoon of the same Day, to yield up, and make a true and perfect Account in Writing, Subscribed with their Names and Marks of all such Sums of Money, as they have received, or Rated, and Selled, and not received, for and towards the Relief of the several Poor of their several Parishes, and also of such Stock (to set the Poor on Work,) as is in their Hands, or in the Hands of any of the said Poor and of all other things concerning the said Office, and hereof that they fail not at their, and every of their Perils. And further we require you, that you give warning to the Petty Constables of every Town, within your said Hundred, that they, or one of them be also then present before us, to Inform and Certifie us of the Names of such other Persons as are meet and fitting to be Overseers of the Poor within their several Towns for this Year next ensuing, and hereof fail not at your Perils.

Note that this Warrant must be under the Hands and Seals of two Justices at the least, the one to be of the Quorum.

*The Form of a Warrant to the new Overseers to take
their Charge.*

Middlesex. To the Overseers of D. &c.

By Virtue of a Statute made in the 43 Year of the Reign of our Sovereign Lady Queen Elizabeth (Entituled *An Act for the Relief of the Poor*) These are to Will and Require you whose Names are here Under-written, That you together with the Church-wardens of your Parish, at the Time being, do (according to the Form of the same Statute,) take Order from Time to Time, for the Year to come, for the setting to Work the Poor within your Parish, and for raising a convenient Stock of some Wares or Stuffs in your Town, to that Purpose, and providing necessary Relief for such as are Lame and Impotent amongst you, and for the placing Apprentices, such Children whose Parents are not able to Maintain them: And hereof see that you fail not at your Peril. Dated, &c. Under the Hands and Seals of us, &c.

This Warrant must be under the Hands and Seal of two Justices of the County.

*The Form of a Warrant to Distrain such as refuse to
pay their Rates to the Poor, &c.*

To the Church-wardens, and other Overseers of the Poor, within the Parish of A. and every of them,

Warwick. Forasmuch as we are Credible Informed, [or that it hath been duly proved before us] That the Persons here under-named, do refuse to Contribute, or pay the Sums of Money here undermentioned, set upon their Heads, being

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being called and cited upon them severally, for, and towards the necessary Relief of the Poor of your said Town, according to the Form of the Statute in that behalf lately provided, These are therefore in his Majesties Name, -straitly to charge and command you and every of you, forthwith to require the said Persons so refusing, to be before us, to shew cause of their said Refusal, and if they or any of them shall refuse to come before us, that then immediately you do Levy all and every the said several Sums of Money unpaid, and all Arrearages thereof, of all and every the said Persons so refusing, by Distress and Sale of the Offenders Goods, you rendring to the said Parties the Over-plus that shall remain upon the Sale of the said Goods, if any be, and this shall be a sufficient Warrant for your so doing, Dated, &c.

Note, the Parties offending must be named here, &c.

C H A P. XXI.

The Form of a Warrant for suppressing an Ale-house

Surrey, W. L. and G. L. two of his Majesty's Justices of Peace, within the said County of S. To the Constables of G. and either of them Greeting. Whereas we are credibly informed that M. B. of your Town, Victualler, is himself a Man of Evil Behaviour, and besides doth suffer Evil Rule and Disorder to be kept in his House, contrary to the Laws and Statutes of this Realm, These are therefore to will and command you forthwith to repair to the House of the said M. B. and to charge him to cease keeping any longer any Ale-house or Tipling-house, and from common selling of Ale or Beer at his Peril, and withal that you

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you cause his Sign to be pulled down, and hereof fail not as you and either of you will answer the contrary at your Peril. Given under our Hands and Seals at F. the ——— Day of ——— and in the ——— Year of the Reign of our most Gracious Sovereign Lord King William the third, &c.

But it is usual with the Justices as they grant this last Warrant, or a Warrant to Levy Monies forfeited by Ale-house Haunters, to send for the Offenders and Examine them of the Offence, that the Truth may be known, and that the Information be not upon the Account of Brangling or Malice between the Parties so informed against, and the Party informing, but the Truth known upon plain Conviction. Forfeitures in the latter Case may be Levied, upon refusal to pay, by Distresses and Sale of Goods, and for want of such Distress the Offenders set in the Stocks, &c. See more in the Office of a Constable in this Book.

O H A P. XXII.

Supersedeas Grantable by Justices of the Peace in Supersedeas Warrants, &c. their Forms

The Form of a Supersedeas by a Justice of Peace.

Suffex. R. D. Esquire one of the Justices of Peace of our Sovereign Lord the King, within the County of Suffex, To the Sheriffs, Bailiffs, Constables, and other of the Faithful Ministers of our Sovereign Lord within the said County, and to every of them, sendeth Greeting. Forasmuch as L. T. of C. &c. Husbandman, hath personally come before me at D. &c. and hath

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hath found sufficient Sureties, that is to say, W. C. and R. B. Esq. Teenen, either of which hath undertaken for the said L. T. under the pain of Twenty Pounds, and the said L. T. hath undertaken for himself under the pain of Forty Pounds, that he the said L. T. shall well and truly keep the Peace towards our Sovereign Lord and all his Leige People, and especially towards R. B. of Essex Baker, and also that he shall personally appear before the Justices of the Peace of our said Sovereign Lord at the next General Sessions of the Peace to be holden for this County of Suffolk: Therefore on the behalf of our said Sovereign Lord, I command you and every of you that you utterly forbear to Arrest, Attach, Take, or Imprison, or otherwise by any means for the said occasion to molest the said L. T. and if you have for the said occasion and no other, taken or imprisoned him, that then you do cause him to be delivered and set at Liberty without further Delay. Given at D. in the County aforesaid under my Hand and Seal this 29 of January, &c.

Note, a Superfedeas of this Nature is not good though the Sureties are not named, nor the Summ they are penally obliged in; yet it is better to express them both; for in such case if it shall appear the Sureties are not sufficiently Responsible, nor bound in sufficient Summs, better Sureties may be taken, and accordingly all the Superfedeas issuing out of the Court of Chancery, King's-bench, and Common-pleas do mention the Names of the Sureties, and the Summs they are obliged in for the Delinquents forth coming to answer, &c.

And further note, that upon good Sureties

taken for the good Behaviour, a Superfedeas of good Behaviour may be granted, as for the Peace, *Mutatis mutandis*. *Crompt.* 237.

Also a Superfedeas *de capis Indictamentum de Transgression*, and so of an Exigent may be granted by the Justices of Peace out of the Sessions, otherwise it would be Mischievous for the Party, not only by Reason of his Imprisonment, but also that he may be outlawed before the Sessions, if so it were that the Justices of Peace might not take Sureties of him for his appearance, and all is no more than to appear and answer to the Indictment.

And these according to *Crompton's* Opinion, *Crompt.* 234. may be granted by one Justice of the Peace, and with him agree the Books of Entries. However *Lambert* thinketh it not in the lawful Power of any one Justice of Peace, to grant such Superfedeas at this Day, but that it must run in the Names of two Justices, one to be of the *Quorum*; *Lamb.* 150. However great many Presidents run in the Name of one Justice of the Peace, which seemeth to be the ancient Practice: Notwithstanding the joining of two Justices of Peace herein, and one of them of the *Quorum* is on all Hands concluded most Authentick; and in *Dalton's* of the Opinion it ought so to be.

The Form of a Superfedeas deliver out of Prison for Trespass, or the like.

Wigorn. T. B. Armig. Uniu. Just. Dom. Reg. nunc ad Pacem in Cam. Præd. Conservand. Constabul. Will. de S. pæd. nunc Reg. Gualt. dist. Domini Regis in Comit. Salubem. Quia M. B. de G. Labourer nunc curam meam invenit suffic. securitat. essendi circa Justit. dist. Domini Regis ad Proximum Gener.

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Una Session. Pacis in Com. predict. tenend. ad respondend. tam D. C. de B. in Com. G. B. de quibusdam Transgr. s. seu Contemptibus, &c. per ipsum perpetratis, idem vobis & cuilibet vestrum Mand. quod predict. M. B. & custodis vestra sine dilatione deliberari faciat. & alia mandata mea inde direct. interim supersedens & hoc Mandatum meum erit vobis & cuilibet vestrum Warrant. Datum apud P. tali Die &c.

Or you may begin it thus, s. T. R. Armig. Justic. Cantabul. Ville de S. nec non, &c.

Supersedeas de Exig. Fac. de Felonia.

Ebor. Gulielmus, &c. Vic. Com. Ebor. Salutem. Quia D. C. de B. in Com. tuo Pistor venit coram F. L. & invenit sufficient. Manuceptor. essendi coram Custod. Pacis vestre (ac Just. nostris ad diversas Felon. &c.) ad General. Session. Pacis vestre apud G. tali die tenend. ad respondend. nobis de quibusdam Feloniis unde indubitanus est, Ideo tibi precipimus quod de alterius Exigenti. praeas. D. C. ad aliquam Convict. tantum vel Imprisonand. sine ipsius occasione aliquoties molestari. omnino supersed. & habeam ibi sine hoc breve. Teste W. M. apud L. tali Die &c.

Supersedeas de capite pro fine.

Cantab. I. R. Armiger unus Justic. Dum Rex nunc ad Pacem in Com. predict. Salutem Quia L. C. de N. in dict. com. Tonsor venit coram me & invenit sufficient. Manuceptor. essendi ad proximam Generalem Sess. Pacis in Comitatu. predict. tenend. ad faciend. Fine. cum dict. Dum. Rex pro quibusdam Transgr. Contempt. & offensis unde indubitanus est. Ideo tibi precipio quod de capite. praeas. L. C. Imprisonand. sine ipsius occasione aliquoties molestari. omnino

superfed. & habeam ibi cum hoc preceptum Teste me,
&c.

There are other Superfedent's on several occasions; but finding these Forms, I thought good to set them down as a Light to further Matter of this Kind; and for a Treatise of them more at large, I refer you to *Dalton, Chap. 13, Crimpon. 234.*

C H A P. XXIII.

The Forms of Recognizances on several occasions, to be taken by Justices of Peace, and written by them or their Clerks, &c.

The Form of a single Recognizance to be taken before a Justice of the Peace.

Surrey. Memorandi quod ———— die ———— anno Regni Domini nostri Guillelmi terti Dei Gratia Anglia, Scotia, Francia, & Hibernia Regis, Fidei Defensoris, &c. Venerunt coram M. O. & W. C. Armiger. Justiciar. disti Domini Regni ad Pacem in Com. S. conservand. Assignat. S. P. & B. in comitatu praedicti. Yeoman, & W. S. de eodem Textu ac D. R. de S. in comitatu praedicti. Sineur & Recognover. se debere Disti Domino Regi viz. quilibet Manuap. praedicti. decem Libr. & Praedicti. S. L. in viginti Libr. bona et legalia Moneta Anglia solvend. eidem Domino Regi in Festa Purificationis Beatae Mariae Virginis proximo futur. reddat. present. & nisi fecerint concesserunt pro se Hanc Executor. & Administ. suis per presentes quod disti separatis summa levent. & reciperent. de maneris Mesuagii. Ter. Tenement. Bonis Catallis & Hereditament. ipsi S. L. W. S. & D. R. Hared. Exec.

et Affien. suor. ubicunque fuerint. invent. Dat.
Sec.

The Form of a Recognizance for the Peace.

Suffen. Memorand. quod ——— Die ——— Anno
Regni Domini nostri Guillelmi Tertii, Dei Gratia, &c.
P. P. de E. in com. predict. Auri faber, in propria
persona sua venit coram me T. L. Armig. uno Justic.
dicti Dom. Reg. ad pacem in dicto com. conservand.
Affien. & dampnit pro seipso sub pena Quingenta
Libr. & W. I. de M. in com. pred. Teoman & T. N.
de Sec. Agricultur. tunc & ibid. in propriis personis
suis similiter vener. & manuceperunt pro predict.
P. P. viz. quilibet cor. separat. sub pena viginti
quinque lib. quod idem P. P. personaliter comparebit.
coram Justic. Dom. Reg. ad pacem ad peace. Genera-
lem Sessionem pacis in com. predict. tenend. ad faciend.
& recipiend. quod et per cartam. tunc & ibid. injunge-
tur & quod ipse interim pacem dict. Dom. custodiet.
erga ipsum Dom. Reg. & cunct. populum suum pra-
cipue versus N. M. ——— Teoman & quod damp-
num vel malum aliqu. Corporale & gravamen Praef.
N. M. aut alicui de populo dicti Dom. Regis quod in
Lesionem aut Perturbationem pacis ipsius Domini Re-
gis sui praef. N. M. cedere valeant quous modo non
faciet nec fieri procurabit. Quam quidem sum. Quin-
quaginta lib. predict. P. P. & quilibet Manucept.
pred. predictos separales summi viginti quinque Libr.
debere dicta Dom. Regi de Terris & Tenementis ba-
nais & catallis suis quorumlibet & cujuslibet eor. ad
quos dict. Domini Regis Hares. & successor. suor.
heri & levari ad quamcumque manus devenierit
si contigerit ipsum P. P. praemissa vel eorum aliquid
in aliquo infringere & inde Legitimo modo convinci.
No aliter rei Testimon. ego predict. T. L. sigillum me-
um apposui Dat. apud. &c.

Note

For Note here, if the Justice only subscribe his Name to the Recognizance without putting his Seal, it may be well enough. And further, that all Bonds, Obligations, and Recognizances that shall be taken by any Justice of the Peace, or any other Person, for any cause touching the King, must be made and be taken in his Name, and by these words; *Domino Regi, &c.* under a Penalty to him that takes them, as I have elsewhere said.

The Form of Conditions of Recognizance to be set under the Recognizance, or Indorset.

The Form of a Condition to keep the Peace,

The Condition of this Recognizance is such, that if the within bounden P. P. shall personally appear before the Justices of our said Sovereign Lord the King, at the next General Sessions for the Peace, to be held in the said County of *Suffex*, to answer to such matters as shall be objected against him, by N. A. within named, to do and receive what the Court shall then and there enjoin him; and that he do in the mean time keep the Peace of our said Sovereign Lord the King, towards the King's Majesty, and all his Liege People, and especially towards the said N. A. of E. aforesaid Yeoman, that then this Recognizance to be void and of none effect, or else to be and remain in full Force and Virtue.

The Form of a Condition for one to appear before the Justices of Peace at their next Sessions.

The Condition of this Recognizance is such, that

if the within Bounden W. A. shall make his Personal Appearance before the King's Majesties Justices of the Peace at the next Quarter Sessions of the Peace, to be holden for the said County of S. then and there to make Answer unto such Matters as on His Majesty's behalf shall be objected against him (by W. A. or concerning, &c.) [and there shew the Matter shortly] and shall also stand and abide such further Order as the said Court shall award, or set down therein, that then and from thenceforth this present Recognizance shall be frustrate and Void, or else to remain in full Force and Virtue.

The Form of a Condition for one that hath dangerously hurt another.

The Condition of this Recognizance is such, that whereas the within bound K. R. hath now dangerously Hurt, or Wounded L. G. of R. within the said County of S. Butcher, giving him divers Blows, or Cuts on the Head, Face, &c. with a Chopper made of Iron and Steel, so as the said L. G. is in danger of Death thereby. If therefore the said K. R. shall make his Personal Appearance before the King's Majesty's Justices at the next General Goal delivery to be held in the said County of S. then, and there to make Answer to the Premises, and to receive that which shall be by the Court Injoynd him, and that he the said K. R. in the mean time do keep the Peace of our said Sovereign Lord the King towards the King's Majesty, and all his Liege-people, that then, &c.

A Help to Justice,

C H A P. XXIV.

The Forms of Mittimus's to deliver Persons Committed to Goal, &c.

The Form of a Mittimus to send a Disorderly Person, or other Disorderly Person to the House of Correction.

Berks. I Have sent you herewithal the Body of a *Mittimus* of *D. B.* of *R.* in the said County of *B.* being an Idle, Dissolute, and Disorderly Fellow, or one that will not keep his Service, nor follow an Honest Course of Life. These are therefore to Will and Require you to receive the said *D. B.* and him safely to keep till he shall be there delivered by Warrant from my self, or some other His Majesties Justices of the Peace for the County of *Berks*, and in the mean time to bind him to hard Labour, giving him the moderate Correction of the House, by Whipping, and otherways, according to Law in such Cases provided, and hereof fall not at your Peril, doct, &c.

NOTE, that the Justice, at his Discretion may Limit a Time for his Imprisonment in the *Mittimus*, at two or three Days, and then to be Discharged, &c.

The Form of a Mittimus of a Felon after his Examination taken.

Surrey. I. B. Knight, one of His Majesties Justices for the County aforesaid, to the Keeper of His Majesties Goal at the *Marshalsea* in the Borough of *Southwark*, in the County aforesaid, &c. Greeting, I send you herewith the Body of a *Mittimus*

and their Clerks.

Use of G. Labourer, brought before me this present Day, and Charged with the Felonious taking five Swine, (which he hath also confessed upon Examination before me) And therefore these are on the Behalf of our said Sovereign Lord the King, to Command you that you immediately receive the said B. A. and him safely keep in your said Goal, until that he shall be thence delivered by due Course of Law: Hereof fail not, as you will answer the Contempt at your Peril. Given at C. the _____ Day of _____ in the _____ Year of the Reign of our Sovereign Lord, &c.

Note, here the Party Confessing the Felony on Examination, is held to Bar himself of being Bailed by the Justice, &c.

The Form of a Mittimus upon Suspicion of Felony, &c.

Essex. I. D. Esq; one of the Justices of the Peace for the County aforesaid, To the Keeper of his Majesty's Goal at Chelmsford in the said County, or to his Deputy there, Greeting. These are in his Majesty's Name, to Charge and Command you, that you receive into your said Goal the Body of B. K. late of D. Mariner, taken by L. C. Constable of the Town of C. and by him brought before me for Suspicion of Felony, &c. and that you safely keep the said B. K. in your said Goal, until the next General Goal delivery for the said County, [if he be not Bailable, or if Bailable, then thus] until he shall be thence delivered by due Course of Law. And hereof fail not, as you will answer the Contempt at your Peril, &c.

Witness my Hand and Seal at Chelmsford the _____ Day of _____ 16__.

A Writ to Justices,

*The Form of a Writ to find the Reported Father
of a Bastard-child to Goal.*

Warwick. I send you herewithal the Body of C. R. of S. in the County of W. Labourer brought before me this present Day, and Charged by S. J. of the same Town, to have gotten her with Child, and for that the said C. R. is futeh to put in Security for his Appearance at the next Quarter-Sessions, and to the end he may be forth coming, when an Order shall be taken for the Relief and Discharge of the said Town of S. and for the keeping of the said Child (which it shall happen to be born) according to the Statute in that Case made and provided. They are therefore on His Majesty's behalf, to Charge and Command you that you immediately receive the said C. R. and him safely keep in your said Goal, until such time as he shall be thence delivered by due Order of Law, as hereof fail not, as you will answer your Obedience at your Peril, Dated, &c.

Note that in every *Writ*, the Cause for Commitment is to be set down, to the end it may appear, and be made known whether the Prisoner be Bailable or not, and the *Writ* must be directed to the Goalkeeper, or his Deputy, who is to receive him and him keep in it, also where the Justices of the Peace at their Sessions may hear and determine, and to the Commit Offenders for the Offences, or Fines, it is necessary that in their *Writs*, there be contained the Manner of the Offence, and how long time the Prisoner is to be kept in Prison in it, and after this manner, with varying the Names of Places, and Persons, as it shall happen on the Occasion, and some other Variations.

Pol.

Point of Fact, &c. These may direct a Clerk to make others, &c. And *Mittimus's* may be directed thus, *Sc.* To the Keeper of His Majesty's Goal of *M.* and to the Deputy, or Deputies there, and every of them. And in case one be Committed for a Fact where the Statute appoints the Fine upon the Parties being Convicted before a Justice of the Peace, by Witness, or his own Confession, the Fact must be at large set down, as also the Penalty or Summ, and then it must be to continue him till he pay the Money therein mentioned, as in Case of Unlawful Fishing, Hunting, Shooting of Conies, Pidgeons, or the like with Hand-gun, &c.

C H A P. XXIV.

The Form of Bailment by the Justices of the Peace, &c.

The Form of the Liberate, to deliver a Prisoner Committed for Felony.

Warrant. A. D. and C. D. Esquires, two of His Majesty's Justices of the Peace, to the Keeper, &c. of His Majesty's Goal in the County aforesaid, Greeting, Forasmuch as G. F. a Labourer, hath before us found sufficient Main-prize, to appear before the Justices of the Goal-delivery at the next General Goal-delivery, to be holden in the said County, there to answer to such things as shall be then and there on the behalf of our said Sovereign Lord the King, objected against him, and namely to the *Warrant* taking five Geese, for the Suspicion whereof he was taken and Committed to your said Goal.

we Command you on the Behalf of our Sovereign Lord, that if the said G. F. do remain in your said Goal for the said Cause, and for none other, Then you forbear to Grieve or Detain him any longer, but that you deliver him thence, and suffer him to go at large, and that upon Pain that will fall thereon. Given under our Hands and Seals, this, &c.

The Form of another Bailment, where the Goaler can conveniently bring the Prisoner before the Justices.

Cantabr. Memorandum quod Decimo die Novembris, &c. L. C. de G. &c. W. W. de M. &c. P. venerant coram nobis S. T. & P. T. Militibus duobus Justis. Domini Regis ad Pacem Com. predicti. conservand. Assignat. apud H. in Com. predicti. & Manu. pro G. L. de, &c. utrumque eorum sub pena viginti Libra, &c. & predicti. G. L. nunc & ibidem similiter Assignat. sub pena quadraginta Libra. consimilis Moneta Anglia de Bonis & Catallis & Tenement. eorum & chivalis eorum ad opus & usum dñi Dom. Reg. Hared. & Successor. suorum fieri & levari si prefat. L. C. decreverit in condicione indorsata.

The Condition of this Recognizance is such, that if the within Bounden L. C. shall make his Personal Appearance before the King's Majesty's Justices of the Peace at the next general Session, to be holden for this County, then and there to make Answer to our Sovereign Lord the King, for, and concerning the Suspicion of Stealing five Sheep, whereof he standeth charged, then this Obligation to be void, and of none Effect, or else to be, and remain in full Force and Virtue, &c.

A Warrant to deliver a Servant out of a Goal.

Suffex. F. B. Armiger unus Justic. Domini Regis &c. Custodi Guala dicti Domini Regis in com. predicti. Salutem Quia C. W. de R. Labourer coram me inveni sufficiens. Securitat. essent. eorum Justic. dicti Dom. Reg. ad pacem in com. predicti. conservand. &c. ad proximam Generalem Sessionem pacis in com. predicti. tenend. ad respondend. tam dicto Dom. Reg. quam D. C. de N. de Transgres. Et contempn. suis contra formam Stat. de servientibus nuper editi. Et provis. Ideo tibi ex parte dicti Dom. Reg. mando quod predicti. C. W. a Prisona tua si ea occasione Et non alia ibid. deteneatur, sine dilatione delib. fue. Dat. &c.

Note, wheresoever a Justice of the Peace upon his own Motion or Discretion, hath committed a Party to the common Goal, or any other Goal or House of Correction for want of Sureties for the Peace, good Behaviour, or for being a vagrant or idle Person or such like, it seemeth the same Justice in like discretion may afterwards discharge him again, and make his Liberate or Warrant to deliver such Prisoner, &c. vide 14 Hen. 6. Folio 8. Tit. Impriso. 27.

The Form of a Bailment for the Peace, the Party being in Prison.

Memorand. Seco. B. A. de C. E. D. de L. Et L. & L. C. de M. venerunt coram me G. W. Sec. Et manduca erunt pro R. B. de L. quod ipse pacem gerat erga cunctum Populum Domini Regis Et pacem erga S. I. sub pena cujuslibet manucapae. Et quod predicti. R. B. compareat coram Justic. Domini Regis ad proximam Generalem

*Seignem Pacis pro Com. pradiſt. tenend. apud L. in
Com. pradiſt. &c. Dat.*

CHAP. XXV.

The Form of Releases by Juſtices of the Peace, &c.

The Forms of the Release of a Juſtice of the Peace

EGO preſat. L. D. qui ſuper nominatione A. B.
ad pradiſt. Securitat. Pacis inveniendo ex mea
Diſcretione compaſſi eandem ſecuritat. Pacis quantum
in me eſt ex mea Diſcretione primo die Decembris
&c. remiſi & relaxavi. In cujus rei Teſtimon. hui
preſenti relaxationi mee ſigillum meum appoſui. Dat.
Die & Anno ſuperdiſſis.

*The Form of the Release of a Party before the ſame
Juſtice that took it.*

Ebor. Memorand. quod Decimo Die Novembris
&c. preſat. L. R. venit coram me R. G. & Graſſ.
remiſi & relaxavi quantum in ſe eſt pradiſt. ſe-
curitat. pacis per ipſum coram me verſus ſupra nomi-
natum B. A. petram. In cujus rei Teſtimon. ex
preſat. R. G. ſigillum meum appoſui, Dat. &c.

Note that theſe two Releases are to be
written under the Recognizance it ſelf; and
if the Juſtice ſhall only ſubſcribe his Name
without his Seal, it is ſufficient; eſpecially
where the Recognizance is not Sealed. Or the
Release of the Party may be by it ſelf, in this
Form.

Cantab. Memorand. quod D. C. de S. in com.
pradiſt. Yeoman, Viceſimo Die Decembris, Anno Regis
Hen. octavi &c. venit coram me B. L. Armig. &
Juſtice

Justic. dñi Dom. Regis ad Pacem in Com. prae-
serving. offic. apud W. in com. pred. & ibi ne-
cessitate & gratis relaxavit W. L. de S. in Com. pred.
Laborer Securitatem pacis per ipsum D. C. versus
dictum W. L. unum me prae-
dictum. Dat. Die & Anno

And if the Release be made before another Justice who took not, or hath not the Recognizance, it may be that

Memorandum, quod D. C. de S. in com. predict. Yeo-
man Venerabilis Dei Decretis, venit coram me D. N.
Archiepiscopo Justitiae dilecti Domini Regis ad Pacem in
viam predictam. assign. apud S. in com. predict.
de Secretariatum Parisiensem habet assign. I. D. de N.
D. de plures Remissa (y relaxavit) Das. Die 8. Anno
1785.

... Nor that none of these Releases will discharge the Recognizance, or Appearance of the Party bound thereby; but that he must appear according to the Condition of the Recognizance for the Surety of his said Recognizance.

Brief Directions, or Helps to Gentlemen of the Grand and Petty Juries, whereby those that are not used to be on Juries may inform them in many Material Things concerning the Weighty Trust reposed on them in discharge of their Duty.

CHAPTER XXVI.

Somewhat of the Antiquity of Juries. What things they must consider, and how they ought to be Qualified to be Jurors.

IN this useful Book promising to lay some-
what of Grand and Petty Juries, to give those

an Insight into what they ought to know, who take so great a Trust upon them when sworn Jurors to enquire, &c.

The Tryal by Juries is very ancient in this Kingdom, and it is our Happiness above other Nations, that a Man has so great a Benefit to be Tryed by his Equals: Men unprejudiced and unbiassed to deliberate upon Hearing the Evidence, and Weighing in their Consciences, the Merit of the Cause. This way in some degree was not unknown to the ancient Britains, as by some of their Books and Monuments of Antiquity appears: and we find it practised by the Saxons, as Mr. Leake makes Remarks on King *Ethelred's* Laws, Page 118. and *Codex* per *Institutes* Folio 154. and since more amply confirmed after the Norman Conquest by *Magna Charta*, Every Day growing more and more in Esteem, because no Man's Life, unless it be a Parliament, which is a Supreme Court and is supposed will never do any Man wrong, shall be touched for any Crime whatsoever, but upon being found Guilty on two several Tryals for so may that of the Grand and Petty Jury be rightly termed, and the Judgment of twelve Twelve Men at least, all of his own Condition, viz. 12. or more to find the Bill against him, and 12 more to find him Guilty or Acquit him on the General Issue: All which Jurors ought to be Substantial, Honest, and Impartial Men, being Neighbours of the Party Accused, or supposed Place where the Fact was committed.

A Jury in this Case upon hearing the Evidence must be fully satisfied in their Conscience, that the Party is guilty, and so unanimously pronounce him upon their Oaths, or

else he may not be condemned: for the Office and Power of these Juries is Judicial; from whose Sentence the Indictment is to be valid or invalid, or to speak plainer, the Party Indicted to be found Guilty or Acquitted, for from their Verdict there lies no Appeal. As for the Qualifications of such as are to be upon Juries, the Law has provided that they shall be Persons of Honesty, Ability, Integrity, and Indifferency, and Coke in the first part of his Institutes, Sect. 124. Folio 153. Says, that a Juror must be *Libero Homo*, not only a Freeman not bound, but one that has such Freedom of Mind, that he stands indifferent Sworn, as he stands unsworn; that he must be *Legalis* Lawful, and by the Law these Properties are required in a Juror: 1. He ought to have his dwelling most near to the place, where the Question does arise, or is moved; 2. He must be most sufficient both in competency of Estate and understanding; 3. He ought to be least suspicious, viz. be indifferent as he stands unsworn, and then He is accounted *Libero & Legalis Homo*, otherways it is held he may be challenged and not sworn, for the Prisoner may challenge 25 in case of Treason, and 25 in Case of Felony, without shewing Cause; and as many more as he can assign just Cause against; In brief, Jurors must be free from all manner of Bondage, Obligations, Affections, Relations, and Prejudices; they must be the Peers, or Equals of the Party they are to try, and of the full Age of one and Twenty or upwards.

They were antiently all Knights, as you may find it in *Glanvil* and *Bracton*; and still must be Men of Worth and good Repute, and as they are returned by sworn Officers of the

OF THE OATH TO STAND

Sworn; to they of the Petty Jury are to be sworn generally on every Tryal; the better to mind them of their Oath, or they to be charged upon the Oath with each Party they are to try.

CHAP. XXVII.

Of Indictments, Presentments, and the difference between them; the Oath administered to the Grand Jury, and how they ought to inquire, &c.

THOUGH both of them, as I have said, are Juries, yet there is made a small distinction between them in the Title; in Grand and Petty Juries. The first is so called, as it seems, because it usually consists of a greater Number than the other, as 17, 19, 21, or the like, yet they can make no Verdict, or Presentment, unless Twelve of them at the least agree; and then though the rest consent not, it is held sufficient. And they are further so called, because they generally have of the greater quality; and likewise regard of their Power; because their Office is more great and general, extending to all Offences throughout the whole County for which they serve as Jurors.

The Petty Jury, commonly called the Jury of Life and Death, consisting of 12 Men, are all to agree in a Verdict, or the Verdict cannot be taken, and is no Verdict.

The Grand Jury, or Grand Inquest; for so they are often called; have Principally two things in their Consideration, 1st. Indictments and Presentments; Indictments are those that are usually drawn up in Form at the instance of the Prosecutor, or by the Order of the Court.

and then brought before, and delivered unto the Grand Jury, and the Witnesses Sworn attend them, to be Examined by them upon the Oath they have taken; and according as they Credit, or Discredit the Evidence, or find cause, they Indorse the Indictment, *Bills vera*, or *Ignoramus*, it is a true Bill, or we are Ignorant; the latter concluding the Jury does not find the Matter, or there does not upon Evidence appear a sufficient Ground for the Accusation, that the Party's Life or Reputation should be brought into Question or Dispute.

As for a Presentment, it is when of their own Knowledge, or upon Enquiry, the Jury themselves do take Knowledge of a Nuisance, or Offence to the Injury of the Publick, which they think fit to have removed, or punished, and of which they Inform the Court to that purpose, briefly in Writing without Form, *viz.* The Nature of such Offence, or Thing, and the Person's Name and Place, who is the Agriever, or where the Nuisance is, being a Ground and Matter whereon to Form an Indictment, the Presentment differing from the Indictment in two Particulars, *viz.* its not being drawn up in due Form; and whereas the Indictment is commonly drawn up by the Order of the Court, or the Instance of some Prosecutor, as is said.

The Presentment on the other Hand is always Originally the Act of the Grand Jury.

The Form of the Oath Administered by the Court to the Grand Jury when they are to Enquire, &c.

You shall diligently enquire, and true Presentments make of all such Matters, Articles and Things as shall be given you in Charge, as well as of all other Matters and things as shall come

to your Knowledge, touching this present Service. The King's Council your Fellows, and your own you shall keep secret; you shall Present no Person for Hatred or Malice, neither shall you leave any one Unpresented, for Fear, Favour or Affection, for Lucre or Gain, or any Hopes thereof; but in all things you shall Present the Truth, and nothing but the Truth, to the best of your Knowledge, *So help you God,*

And now from what has been said, it appears that this Important Office is Branch'd twofold. The first is to preserve the Innocent from the Disgrace and Hazards, which by Malice, or any sinister Means they may be brought into; for by the express Words of the Statute of 25 *Edward the Third, c. 3.* and the 43 *Edward 3. c. 3.* it is said, That for preventing Mischief done by false Accusers, none shall be put to answer, unless it be by Indictment, or Presentment of Good and Lawful People of the same Neighbourhood, where such Deeds be done, and this no doubt may be taken to imply a Grand Jury.

The other Branch is to enquire after, and give Notices of all Nuisances, Offences, Crimes and the like, in the County for which they serve, that so Offenders may be brought to Trial if they are forthcoming, or if fled from from Justice, may be proceeded against upon the Outlawry, and so Criminals Punished according to their Demerit.

A Grand-jury, or Petty-jury, where there is no Witness against the Prisoner for the Crime he stands indicted for, yet knowing him guilty of their own Knowledge, may find it accordingly, and this especially in the Petty-jury appears pretty plain by the Words spoken to them by the Court; for if no Witness appears, the Court thus speaks to the Jury, or to this Effect. Gentlemen of the Jury, here is *A. C.* stands indicted of such a Crime (na-

ving it) and there is no Witach come against him. So unless you of your own Knowledge know him Guilty, you must Acquit him. But where there is Evidence, the Grand-jury must industriously Examine the Evidence for the King, and the Petty-jury must have the Prosecutor and his Evidence, if he have any beside, Face to Face with the Prisoner, and patiently hear what can be Alledged in charging the one, and the other defending himself, and deliberately weigh the Matter, and may pray the Court to ask such proper Questions of the King's Evidence, and of the Prisoner, and his Evidence, as they think fit for their better Satisfaction, and sifting out the Truth of the Matter, and to Judge of Matter of Fact according to their Evidence, as in their Consciences they shall believe; and where a thing is doubtful to them that they cannot well Determine, they may find it Special, and leave it to the Determination of the Judges, and so acquit themselves where such Doubts or Scruples shall arise of falling into an Error in Points of Law, of which the Jurors are not held proper Judges, but where it so requires, must leave it Special.

And thus having spoken mostly in Generals, I now come nearer to Particulars, which may briefly give a further Light into these weighty Matters, that Men Warned upon a Jury, and Empanalled, may be prepared a little to know what is Requisite in so great a Charge and Trust.

CHAP. XXVIII.

*Several Material Things to be known relating to
Jury, as the Law directs, and according to the Opinion
of the Learned Lawyers.*

Jurors both for Enquiry, and Trial, ought to
be *Free & Legales Homines*, Lamb. 396.

Jurors must be Inhabitants, or Free Holders
within the County, to the value of 4 *L. p.
Annum*, by 27 *Eliz. c. 13*. But in Cities and Bur-
ghs to the value of 4 *L. in Goods*, Lamb.
396, 397.

Jurors 70 Years Old, or Decrepit, must serve
if returned by the Sheriff, if the Justices will
have him to serve, but he may, if he will sue
the Sheriff upon the Statute of Westminster
2. Chap. 38. Lamb. 397.

A Jury of Denizens is good, where a Party
is concerned, unless he pray a Jury, *per modum
Lingua*, 2 *Geo. 863*.

Where a Baron is Sued, a Knight must be re-
turned on the Jury, *ibid*.

Jurors for the Trial of Indictments within the
County Palatine of Lancaster, must have six
Pounds *per Annum*, *ibid*.

Jurors must not be nominated by any but the
Bailiffs, as well in Inquisitions before Coroners,
as Indictments before the Justices of Peace.
1 *Cre. 134*.

Jurors Exempted by Charter, with the Words
(*Licet Tangat nos*) are to be Discharged upon
Appearance, shewing it to the Sheriff; but
when there is want of sufficient Jurors, no Ex-
emption can discharge, Stat. West. 2. Chap.
38. Lamb. 397.

If the particular Jurors for the Hundred cannot be supplied by those of the Hundred, it is better to take *Tales de Circumstantibus* of another Hundred, than to be troubled with a Tale from one Sessions to another, *Lamb. 398.*

A Jury of one Hundred may present an Offence done in another Hundred, *Lamb. 399.*

Judges may Command the Sheriff to enter the Peace, and he upon Refusal forfeits so & *11th. 2. Stat. 3. Chap. 72.*

All Jurors ought, and must be Sworn, which ways their Presentments are void; but the Record being, that all the Jurors were Sworn, the Presentments are good, though all be not Sworn, *Lamb. 392.*

Jurors may be Amerced for refusing to Present, being Sworn, *3 Co. 39. a.*

A Juror after he is Sworn, upon sufficient Cause appearing, may by the Judges be removed, *Lamb. 400.*

Jurors of Enquiry must be twelve, as I have already said; but they may be more and usually they are an odd Number, tho' 12 of them Agreeing, the Presentment is good, and an Indictment may be found, *Lamb. 400.*

Jurors of Inquiry ought not to be Committed to a Keeper, nor kept without Victuals, nor carried out of the Town, but may be Adjourned to another Place to give up their Verdict, *Lamb. 400.*

Jurors wilfully concealing Offences Presentable, and which be complained of by Bill, may be enquired of by Persons, whereof every one may spend Forty Shillings *per Annum*, and such Concealment being found within a Year after, every Juror shall be Amerced in open Sessions, *2d. 2. Chap. 1. Lamb. 400, 401.*

No Juror to be returned without an Addition whereby he may be known, 27. *Eliz. Chap. 7* *Lamb. 432.*

Jurors that discover what they have done, are Pardonable, *Lamb. 402.* And in Case of Treason or Felony it hath been Adjudged Felony, *Stat. 377.*

Jurors taking any thing to make a favourable Presentment, shall be Imprisoned, and Forfeited, *Lamb. 441. Cromw. 84. 4. 5. Edw. 3. Chap. 10.*

1. Persons Attainted in Conspiracy. 2. Attain'd by Verdict. 3. *Decies tantum.* 4. Concealment. 5. Subornation of Perjury, these on a Jury are not *Probi.* and their Presentments void, unless there be twelve Men besides on the Jury, whose Reputations are not Blamished, *Lamb. 396.* As to Persons Outlawed, Persons Condemned in Peine morte, Persons Abjured, Persons Attainted of Treason or Felony, and Clergy-men are not to be of Juries.

CHAP. XXIX.

Challenges to be made of Jurors, and other very useful Instructions tending to Evidence, &c.

SO Tender were our Ancestors of the Lives and Fortunes of Men, that in making wholesome Laws, they took great Care that nothing, as near as human Wisdom could foresee, should happen to the Prejudice of the Innocent, the Laws being only intended, and made rather to Deter Men from Crimes, than to punish those who Transgressed the Bounds of them, and because

Prejudice, nor no other thing might sway any Party to Injure a Person Indicted, if on his Jury he has, as I have already hinted, the Privilege of challenging such as he suspects, to a certain number formerly mentioned, peremptorily, and more if he can shew Lawful and just Cause. For the Parties better Instruction.

Note, if a Peer of the Realm be returned on a Jury, he may be challenged by either Party, or he may challenge himself, 1 Inst. 146.

The Array may be challenged where a Peer is Party, and no Knight returned on the Jury. *Ibid.* But in Case of a Noble-man's being put upon his Trial by his Peers, he cannot challenge any of them, they being to Try the Cause on Honour.

One Indicted of Felony may challenge as many as he will, shewing Cause: but if he can Assign no Cause for such Challenges, over and above 20, he can challenge no more than that twenty, 22 Hen. 8. Chap. 14. 28 Hen. 8. Chap. 1. Lamb. 554.

What is properly a good Challenge.

1. Where the Party hath no Lands to the clear value of 40 s. by the Year, Lamb. 554.

2. He that was Indictor of him. Lamb. *ibid.*

3. A Party either in City, or Burrough, that hath not Goods to the value of 40 l. Lamb. *ibid.*

4. He that is not *Probus & Legalis*, as if he be Attainted of Forgery, Perjury, Felony, &c. Lamb. *Ibid.*

5. In Case of Champerty, which is when a Party for Hope of having part of the Thing in Contest or Variance, moveth, or causeth the Suit to be moved at his own Cost, and which is Finesable, and for it he is to be Fined, 33 Edw. 1.

Chap.

chap. 1. Law. 441. and in some other Cases. That the Law of England may be said to be the Law of Liberty; because the Party to be Tried has the Liberty the Nature of the Thing will bear, of a Person under Circumstances, reasonably define the Law it self that directs this. Seeming to Compassionate Men's Miseries and Misfortunes, as well in Criminal Matters, as in securing their Rights and Properties, securing them as it were from powerful Men, that else would Oppress and Ruin them.

CHAP. XXX.

Penalties upon Foretellers of Markets, Fairs, and Badgers, Drovers, Butchers, Tanners, and others, what they may do in some Cases, and what they ought not to do, &c.

Here are several good Laws made to hinder such as by their Men's Intermeddling be grieved and injuring Commodities to themselves, in the derandance of the Trade of others, and making the Commodity dear, &c. Of which, and other things necessary to be known, I shall Treat in this Chapter.

A Foreteller is a Party, either he or she who buys, or Contracts for any Wares, or Goods before they come to the Fair, Market, or Port, or to sell to any Party, to Enhance the Price, and not to bring such Wares, or Goods to any Market, Fair, or Port, &c. Law. 440. Of which the Party being Convicted before the Justices of the Peace at the Quarter-Sessions, in the Examination of two Witnesses, or a Presentment of Foretelling within two Years, for the Offence the first time shall lose the Goods and be imprisoned two Months, without Bail or Mainprize; for the second Offence lose double the Value of the Goods, and be imprisoned

and Petty Jurymen.

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fined for the Space of Six Months, for the third Offence to forfeit all their Goods, stand in the Pillory, and be Imprisoned during the King's Pleasure, 3 Edward 6. Chap. 14. *Dalt.* 875 *Jamb.* 374.

The Moiety of these Forfeitures upon Forefealing due unto the Party Informing upon the Statute of Forefealers, is to be Levied by *Pleas Paria*, or *Capias*, to be Awarded by the Justices of the Peace, *Jamb.* 381.

A Man or Woman Buying Corn for Seed, and not bringing it much to the Market, Forfeits double the Value, 3 *Edw.* 6. Chap. 14.

No License shall be but in open Sessions for Brokers, Badgers, &c. A Drover is meant here one that buys Cattle in one Place, and carries them another to sell. A Badger, one that buys Corn, or Victuals in one Place, and carries it into another. Either of these in Trading must be a Married Man, and a Householder, 30 Years Old, or upwards, and Licensed, under the Penalty of Five Pounds, by 3 *Edw.* 6. Chap. 14. Also he must have dwelt 3 Years in the County, Selling in open Fair, or Market, for Provision of Houses, not Prohibited to Badgers, Licensed by 3 *Edw.* 6. against Ingrossing; and these must give Bond not to Forefeal, &c. Nor to Buy Corn out of Fair, or Market, under the Penalty of five Pounds, unless so Limited by special Writ in the License.

Traders in Butter and Cheese Prohibited in open Sessions from Buying, if they do, are subject to the Penalties, in the 3 and 4 of *Edw.* 6. Chap. 12. and the 5 and 6 *Edw.* 6. Chap. 14. Notwithstanding they extend not to such Traders, Free-men of London.

None shall Ingross Oak Bark, under Penalty of Forfeiting it, 1 *Jacobi* 21.

So of Hides coming to Market : nor Pay, except of the Owner of the Beast to be Spent in his House, under the Forfeiture of 6 s. 8 d. for every one.

Excepted out of 5 *Edw. 6.* Barly, or Oats to be made into Oat-meal.

So things belonging to Butchers, Fishmongers, Poulterers, Sold again at Reasonable Rates.

So Corn, Cattel, &c. Reserved in a Livery-taken. Also Wine or Viſuals by Inn-keepers, dried Fish, Corn, Butter, and the like by licensed Badgers, &c.

So Provision for a City, Shipping, Castles, & Ports.

So Fish brought by persons dwelling within a Mile of the Sea; So Wine, Oyls, and Foreign Viſuals, (Fur, and Salt-fish excepted.)

Excepted out of 3 and 4 *Edw. 6.* and 5 *Edw. 6.* Butter and Cheese Bought by Freemen of London, and Sold again in the Liberties of the said City, Burrough of Southwark and Westminster.

Any Butcher that Gasheth, Slaughtereth, Cutteth the Hide of the Ox, or Steer, or Bull, or Cow, so that it is Impaired, loseth 20 d. or that Wetteth, or Watereth any Hides, unless in June, July or August; or putteth to Sale any putrid, or rotten Hides, for every one of them loseth 10 d. 1 *Jacobi Chap. 22.* Lamb. 462.

A Butcher using the said Craft, and also the Myllery of a Tanner, loseth for every Day 6 s. 8 d. *Ibid.*

A Tanner using also the Myllery of a Shoemaker, Currier, Butcher, or any other Artificer, Using, Cutting, or Working in Leather, loseth for the Hides and Skins Tanned, *Ibid.*

None may Buy or Contract for, or bespeak any rough Hides or Calveskins, but only a Tanner, or Tawer of Leather, except Salt Hides, for the necessary use of Ships, on Penalty of 6 s. 8 d. for every Hide so Bought, or Contracted for, 1 Jacobi 22. Lamb. 463.

None shall Forestall any Hides coming to a Fair, or Market, except such as kill for the Provisions of their House, on Penalty of 6 s. 8 d. for every Hide.

None may buy Tanned Leather, or Wrought, but such as will convert them into made Wares, except Necks, and Shrods of Saddlers, and Girdlers, upon Penalty to lose the said Leather, 1 Jacobi 22. Lamb. 463.

A Tanner putting to Sale any Insufficient Leather, not thoroughly Wrought and Tanned, or not well and thoroughly dried, and the same so found by the Tryers appointed, 1 Jacobi Chap. 22. loleth so much as is Insufficient, Lamb. 463.

See more of this in Statute 1 Jacobi 1. Chap. 11. &c.

All sorts of Spices and Merchandizes Garbled in the City of London, and the Liberties thereof, shall for the usual Fees be Garbled by the Garbler, or his Deputy before they be Sold, upon Penalty of the Forfeiture thereof, or the Value sold for, and so if afterwards mixed with Garbles, 1 Jacobi 19. Dalr. 131.

The Garbler of London, his Deputy, or Assign in the Day-time, may enter any House, Shop, or Warehouse, to see if the Wares, &c. be Garbled; if not, to cleanse them, and Forfeitures of this kind to go to the King and Inheritor, *ibid.*

An Inn-holder in a Corporation, or Market Town, where there is a common Baker that hath been an Apprentice therein Seven Years, may not make Horse-bread within his House, 32 Hen. 8. c. 21. 21 Jacobi c. 12.

An Inn-holder, or Officer in a Thorough-fare Town Corporate, or Market-town, being a Baker, and one that hath been an Apprentice thereto seven Years, may make Horse-bread within his House, 21 Jacobi 1. Chap. 21.

Thickes of Bread, called Horse-bread, must be of a Lawful and sufficient Size, according to the Price of Corn, and its Rate in the Neighbouring Market at that time, according to the 21 Jacobi 1. Chap. 21.

C H A P. XXXI.

Rates of Wages for Servants, according to Statute Law, &c. And how to be Ordered by Justices of the Peace, &c.

Rates of Wages for Servants and Labourers, are to be made by the Justices of the Peace in their Respective Divisions, or Counties, at Easter Quarter Sessions, and by them to be Inrolled in Parchment under their Hands and Seals, and after it is Lawful for the Sheriff of the said County wherein this is done, to cause Proclamation to be made of the several Rates so Rated in so many Places within his Jurisdiction, as to him shall seem Meet and Convenient, and as if the same had been set down Printed by the Lord Chancellor, or Lord Keeper, after Declaration thereof to His Majesty, and Certificate thereof in Chancery, 39 Eliz. Chap. 4. 1 Jacobi, c. 6. Lamb. 474.

He is Say'd *Inquire*, fol. Tag. to have *Vizum* Coroners of a Prisoner Dying in a Goal, by reason of Durety. And the Jury or Inquest, before the Coroner, is to be of Persons within the four next adjacent Villis, made by the Bayliffs or Constables, and no Challenge lies to any of them so legally Summoned on the Inquest, 1 Cr. 135. And upon a View of the Body, and a strict Examination how the Party came by his Death, they must give in their Verdict to the best of their Judgment, according to the Evidence, or other Matters appearing to them, whether it be *Felo de se*, he Killed or Drowned himself, &c. or Died by the Hand of other Person or Persons, or by the Fall of a House, Wall, Timber, Kick of a Horse, or any other Matter or Thing that brought the Party to an untimely End; and the Coroner being so satisfied, he is to give his Warrant for the Burial of the Party, according as it shall be found upon Verdict, and an Indictment may be grounded thereon against such Party or Parties as shall be found concerned. And in this Case he has Power to Commit and Bind over Persons accused before him of Murder, or the like, as he sees Cause. And for doing his Office of one Slain or Murthered, he may lawfully take up 4 d. of the Slayer or Murtherer; and if he have none, then of the Town where the Murder was committed, or the Murtherer suffered to escape, 3 Hen. 7. Chap. 1. Lamb. 434.

A Coroner refusing to do his Office of one Slain by Misadventure, without Fees, loses 40 s. 1 Hen. 8. Chap. 7. Lamb. 434. His Fees shall be Awarded to the Coroner, where the Sheriff is Party. The Writ of Covenant in a Fine, *Venire facias*, &c. 4 Gromp. 416.

74 A Duty to Coroners, &c.

One Person may be Coroner of the King's House [Hofte] within the Verge, and of the County too, 4. Co. 45. B. But where there are several, one cannot meddle within the others Jurisdiction, *ibid.*

Coroners, as Ministers, must all joyn, 4. Co. 57. B. A Coroner, to whom a Writ of Estrepement is directed, is to provide against Waste, by taking *Poss. Comitatus*, *H. 7. chap. 8.*

An Appeal, or an Accusation, by an Approver, is to be entered before the Coroner, 3. Inst. 129.

A Coroner may be removed by being *Misamis*, 5. Co. 58. B.

A Coroner concealing, and not doing his Office, through Fear, or for Prayer, or Affinity, &c. shall be Fined and Impisoned for a Year, or 3 Years, if he cannot pay the Fine, by a Bill of other Officers.

Coroners ought to certify their Inquisition of the general Goal-delivery, and not at the Sessions, 1. and 2. P. and M. 13. *Lamb. 355.*

Coroners being Parties to the Exigents and Judges of the Outlawry, ought to be present at the Sessions, *ibid.*

Coroners are Conservators of the Peace, and may in some Cases Commit Men to Prison, *ibid.*

There lies no Traverse to an Indictment before the Coroner *super visum corporis*, 3. Inst. 55.

Coroners may be Convicted of Offences against the Statute, 1. Hen. 8. Chap. 7. by Examination of Witnesses, and touching Extortions, or not Executing their Office before the Justice of Peace, *Gre. 130. b. Lamb. 435.*

Coroner exacting more a Noble for the View,
and 2s. for his Clark; Fine 40 s. Sec 1. 148.
149.

C H A R. XXXIII.

*Some other Matters relating to the Coroners Office
and Duty in View of Dead Bodies, and of Ruffal, &c.*

THE Law, says he, is, if any Man or Wo-
man, &c. be Wounded, and thereby, in
Peril of Death, the Party that did it, or was
helping in doing it, being apprehended, may be
committed and kept in Custody, till it be per-
fectly known by the Testimony of Skillful Persons,
whether the Wounded Party will Live or Die of
those Wounds or Blows given, and if he Die, the
Coroner, upon view of the Dead Body, shall en-
quire of him, or them that have done the Fact,
whether Man or Woman, and take the Names of
them that were present as Witnesses, or any o-
therways knowing of it. Also he shall take espe-
cial notice of the Abettors and Concealers in, or
towards the Fact, or any way therein concerned,
and so found to Enrole and Certify the same.

The Coroner, according to his Inquest, shall
give in their Verdict, if their be Cause; for he
is to take care to Prosecute the Offender or Of-
fenders, if the Relations of the Deceased or o-
thers refuse, or are slack in so doing; so that if
any Man, &c. be Slain or Murdered, and there-
of the Slayers, Murderers, Abettors, Main-
teners and Comforters may be Indicted, and
brought to Arraignment and Tryal of the Is-
sue, whether they are Guilty of the Murther,
Murtherer, &c. or not Guilty, which may
be done any time in a Year and a Day after

the same Felony and Murder Committed which must be Dated from the Time of the Wounding, or Beating, not from the time of the Dying, or the Party Languish, and live any time after, though somewhat considerable, as a Week, a Month, or more.

And the Wife, or Heir of the Person so Slain, or Murdered, as the Case requires, may Commence his or her Appeal in proper Person any time within the Year after the said Felony done, before the Sheriff, and Coroner of the County where the said Felony and Murder was done, or before the King in his Bench, or Justices of Goal-delivery. And the Appellant in any Appeals of Murder, or Death of a Man, &c. where Battle by the Course of Conscience is feith not, may make their Attorneys, and Appeal by the same.

And the said Appeals after they be Commenced, may be proceeded in to the end of the Suit and Execution.

If a Murderer, or Man-slayer escape, the Justices of the Peace have Power to enquire of such Escaper, and to certifie em in the King's Bench, and that after the Felony found; the Coroners deliver their Inquisitions before the Justices the next Goal-delivery in the Shire, or County where the Inquisition is taken; and they are to proceed against such Murderers, if they be in Goal, or else certifie the Inquisition in the King's Bench, or as it is ordered, put the said Inquisition before the King in his Bench.

All such Coroners as are Remiss in their Office, or Duty of their Place, and make not their Respective Inquisitions upon the view of the dead Body, and certifie not according as aforesaid, or Ordained, every Coroner for such Of-

ence forfeits to the King 3*l.* by 3 Hen. 7. Chap. 2.

And now that the Coroner may not be ignorant what is Murther, I shall briefly lay it down in general, and many material Particulars.

C H A P. XXXIV.

Murther, how to be taken, and what is Observable therein to make it so wilfully, &c.

Murther is when a Man or Woman upon Malice, or propensity, Precedent, or Fore-thought doth Feloniously Kill another living within the Realm, or under the Protection of the King, whether openly, or privately done, or whether the Party Slain be *English*, or an *Alien*, Lamb. 237. Dalt. 343. Gromp. 21. a. Num. 1. Clergy taken away, 1 Edm. 6. And in this Case Killing shall have Relation to the Death, and not to the Stroke, 4 Coke 42. Gromp. 21. a. Num. 1.

Malice is either expressed, Gromp. 21. a. Dalt. 341. or Implied, Lamb. 239.

Malice Expressed, is in a Case where it is known there is Malice between the Parties, Gromp. 21. a. and is apparent, and where there is a preceding Falling out, or lying in Wait, or Time and Place Appointed, Lamb. 239. Dalt. 343.

Malice Implied is to be taken where a Man or Woman, &c. is killed suddenly without Design, Gromp. 21. a. Num. 2. Dalt. 343. As one lying at Reading, or going over a stile suddenly killed by a Party, or where one killeth another with

without Provocation, one Stabbed, and not having a Weapon drawn, Dying in six Months, these are Murther, and so noted by *Dalton*, *Lambert*, *Crompton* and others, and the Statute of Stabbing, 1 Jac. 1. c. 8. *Dalt.* 343.

To Kill an Officer known in Executing Process, *Dalt.* 343.

So to Kill an Officer unknown, if he shew his Warrant; and if an Officer hath the King's Writ or lawful Warrant, though the Process be Erroneous in Awarding, or one Process taken for another, and the Officer be Slain in Executing it, it is Murther, *Dalt.* 343. 2 Cro. 280. 9 C. 68. *Lamb.* 240. So tho' the Arrest were made in the Night-time. But where the Arrest is Tortious, or where an Officer not known shew not his Warrant, or the Arrest be made on the Lord's-day, usually called *Sunday*, (by Stat. *Car. II.* 2.) it is but Manslaughter, *ibid.*

It is Murther to Kill a Magistrate or Minister of Justice, in Executing his Office, or in keeping the Peace, *Crompt.* 23. *B. Numb.* 31. *Dalt.* 343.

An Officer Whipping or Branding to Death, is Murther, 344. A Rioter Killing an Officer, or Assistant coming to Suppress a Riot, it is Murther in the Rioters, *Dalt.* 443. *Crompt.* 23. *B. Numb.* 29. *Lamb.* 241.

A Thief Killing a True Man resisting, - it is Murther of Malice Provense, for here Malice is implied by the Law, because the Thief came purposely to do an ill Act, tho' not purposely to Kill the Man. See *Lamb.* 241. *Dalt.* 344. *Crompt.* 23. *B. Numb.* 13. 9 Co. 67.

One Assaulting another, after the Assault flyeth to the Wall, and then Killeth the other, it is Murther; for he Slew him in the said Malice wherein he did Assault him, *Lamb.* 239.

One Condemn'd to Die, is Killed by a private Person without Warrant, or by the Judge who Condemneth him, or by the Officer contrary to the Judgment, it is Murther, *Dalt.* 340. *Lamb.* 240. *1. Bile.* 1.

So a Phylician or Surgeon, having Malice, Applies a contrary Medicine, of which the Patient Dies, *Dalt.* 344.

A Person carrying his Sick Father, &c. and laying him in the cold Frost, &c. so that he Dies, is Malice; for by it the Law presumes he intended his Death. So a Strumpet covering her Child with Leaves in the open Way, &c. to hide it, and a Beast tramples on it, and Kills it, or a Cart goes over it, &c. *Lamb.* 240. *Dalt.* 342. and of the former, *Dalt.* 344. *Lamb.* 740. And many the like Cases, too long to be here set down; where there is Malice fore thought, Propense, or that the Law presumes, or implies it to be Malice in the Party who Kills another, or sets on another to do it, by A. Tiffening, &c.

CHAP. XXXV.

Homicide and Man-slaughter, Felo de se, &c.

Homicide is Killing of a Man by Man, *Dalt.* 339. 349. *Ex vi* Termin. comprehends Treason, Murder, &c. It is no difference whether the Party Slain be a Denizen, Alien, or English Man, if he lives under the King's Protection, *Dalt.* 340. *Lamb.* 237. *Crompt.* 221. *1. Lamb.* 2.

20 Help to Coroners, &c.

To kill one Attainted for Treason or Felony, or Outlawed for Felony, or Attainted in Premunure is Felony, by 4 Eliz. *Stamford. 13 Dalt. 340. Crompt. 24. a. Num. 39.*

Homicide is either killing himself, *Felo de se*, or by another, and *Felo de se*; a Man by killing himself Forfeits to the King his Goods and Chattels, Real and Personal, and his Debts due by Speciality, *Dalt. 341.* But so Lands nor Blood Corrupted, *ibid.* But his Goods are not forfeit till his Death. *ibid.*

An Infant, or *non Compos mentis*, does not forfeit, but a Lunatick killing himself out of his Lunacy, doth forfeit his Goods, *Dalt. 341.*

Homicide of another, is either Voluntary, or Involuntary; Voluntary is Murther, *vide* Murther, or Manslaughter.

Manslaughter is when two Men, &c. fight together on a sudden without precedent, Malice, and one of them kill the other, *Dalt. 349. Lamb. 248. Crompt. 16. a.*

Manslaughter is either by Chance-medley, or *se defendens*, House and Goods.

By Chance-medley is Felony, but may have Clergy, *Dalt. 349.*

One Fighting breaks his Weapon, another standing by puts one into his Hand, or otherways lends it him, and with it he kills another, it is Manslaughter in the Lender, *Dalt. 134. Crompt. 16. b. Num. 12. Lamb. 248.*

The Servant Fighting in his Master's Defence, though there were Malice in the Master, and not told to the Servant, and one be killed, *Lamb. 248.*

So a Stranger taking part, *Lamb. 238.* is Chance-medley, *Dalt. 348.*

If two that were in Murther are Reconciled, and fall out upon a new Occasion, and is killed, it is Manslaughter only. *Dalt.* 350. *Lamb.* 350.

Se defendendo, is where one killeth another in the necessary Defence of himself, or his, thereby to save himself, or his Possessions or Goods, or some other Person which he is bound to defend from Peril, and it is either against a Felon, Murderer, Thief, or Loyal Subject, *Dalt.* 350. *Lamb.* 352.

Against a Loyal Subject, if he be Assaulted by another Man, he must fly so much as he may till he be letted by some Wall, or other material Hindrance, that his Necessity of Defence may seem Inevitable; and he shall be Committed till the time of his Trial, lose his Goods, and Sue out his Pardon, *Lamb.* 253. *Dalt.* 35. It is not material if he strikes again before he gave any deadly Wound, if he flies to the Strait, *Dalt.* 357, 358.

If a Man fly to a Wall, and hold out his Weapon, if the Pursuer run upon it and is killed, it is *se defendendo*, and forfeiteth his Good, *Crompt.* 20. a. Numb. 7. *Dalt.* 349. But if he had fallen on the Ground, and the other fall on it and kill himself, there is no loss of Goods; for he could not fly, and the slain is in a sort *Felo de se*, *ibid.* F. 122. b. *Sigart.* 10. 4.

If a Man fall to the Ground, there his flying to a Strait is not necessary, because he might be there inevitably killed, if he did not defend himself, *Dalt.* 347, 358.

An Officer, or Minister, of Justice Executing his Office, is not bound to fly, *Dalt.* 358. *Coke*

82 To Help to Conquer, &c.

If a Servant Kill one that Robb'd or Kill'd his Master, so it be done presently, or in defence of his Master's Person or Goods, if he could not otherwise have avoided the same, *Dalt.* 350. *Crompt.* 18. *Numb.* 2.

To Shoot at one that comes to Burn a Man's House, is justifiable in him or his Servants, *Dalt.* 356. *Gr.*

In the Defence of the Possession of a Man's Goods or House, he may justify to Beat him, but may not Kill him, though the Party come wrongfully to take his Goods, unless he be a True Man, *Dalt.* 358. *Gr.*

To Kill a True Man in Defence of House, Goods or Land, is Man-Slaughter, *Dalt.* 358. *Crompt.* 27. *Numb.* 2.

CHAP. XXXVI.

Voluntary Homicide.

This is either by Misadventure or Nec-
essity.

The first is, when a Man, doing a lawful Act, killeth a Man: This is not Felony of Death, but he shall have his Pardon of Course for Life, and Lands, but forfeiteth his Goods, *Lamb.* 340. *Dalt.* 351.

For Example: A School-master, Father, Mother or Master Correcting a Child, Scholar or Servant: Moderately Shooting at Priests, Bait or lawful Marks: A Work-man casting Tiles, Timber or Stone from off a House, or any thing from a Cart, and giving warning, or doing other lawful things, giving warning.

But the Killing of a Man in doing any unlawful Act without evil Intent, is Felony; as shooting Arrows, casting Stones into Highways where People resort, or unto other places of usual Resort, &c. 342.

If a Man be Slain by the Fall of a House or Tree, by a Beast, &c. Any Party, by a wilful Default, causing it, it is Felony, *Dalb. 251.*

The thing that causes the Death, is a *Dendang*,
and forfeited to the King, *Dall*. 232. *Cram*.

Demands are not Forfeited, till the Matter be found on Record.

If a Man be Slain under 14 Years of Age, no-
thing is forfeited as a *Dreaded*. *Dalt.* 353. *Lamb.*
21. 7.

These Generals and Particulars among others, are to be taken notice of by the Coroner, on the view of Dead Bodies; hearing of Evidence upon their Inquisition, and others concerned, as Occasion shall administer, that Justice may be done, and Matters so ordered, as may make things bear a true Face in the Eye of the Law. And so in this Briefness, for want of a larger Scope, I am constrain'd to end what relates to the Office of a Coroner, out of which he may gather many useful Matters and Things, to his great Benefit, in performing the weighty Trust reposed in him.

Although the blains are upon the
face of the infant, it is not
a sign of a contagious disease,
as the blains are not upon the
face of the mother, and the
infant is not in contact with
any other person.

3. Customs, &c. of London.

CHAP. XXXVII.

Customs, Advantages, &c. peculiar to the City of London. Statutes made in its Favour. Of the Court of Requests, commonly called the Court of Chancery, &c.

THE City of London enjoys many Privileges, by Charter and Customs, which in some Cases bear the Force of a Law, or are Equivalent to it, as well as many Statutes made in Favour of that City, the Metropolis of England, and for Trade and Riches famed throughout the known World; some of which Advantages, for the better Information of those that are Ignorant of them, I shall set down in their Order.

Feme sole Merchant.

A Feme Covert shall have Action without her Husband, she being the Wife of a Freeman of London, by the Custom of the City of London, and an Action may be brought against such a Woman, sole Merchant, without naming her Husband; but it seems her Dealing must be different from his, &c. 1 Edw. 4. P. 1. 35 Hen. 6. 32.

Where Plaint is entred against the Husband and Wife in London, because the Wife is a sole Merchant, or against another to find better Sureties there, if the Suit be here in Trespass, or otherwise, and the Wife appeareth upon an *Exigent*, upon a *Habeas Corpus*, or cometh in upon a *Capi Corpus*, so as she cannot make an *Affidavit* here, although the Plaint be upon the Custom

Customs, &c. of London. 31

Custom only, for which at the Common-law there is no Remedy, yet the Prisoner may be Discharged of the first Suit, and shall be sent to the Fleet, &c.

And if he who is Out-lawed, coming to Sue forth his Charter of Pardon, be Arrested, he may have his Privilege; and so it is of one who cometh to Sue forth a Writ of Error, he shall have his Privilege here, if he be Arrested in the King's Bench, *M. 9. B. 4. 36. 36.*

Where a Gift of Goods by a Woman is Pleaded in Bar in an Action of Treplein brought, if the Plaintiff say the Woman was his Wife at that Time, if he say that the Custom of London is that Women are sole Merchants, &c. The same is a Departure, *Hen. 7. 21. H. 11. B. 1.*

In London a Debt upon simple Contract is good against an Executor, *M. 7. B. 4. 6. 3. 3.*

C H A P. XXXVIII.

Where an Action will lie before the Day, or Payment, to find better Sureties by the Custom of London.

IT is Ordained that a Merchant may cause his Debtor, to come before the Lord Mayor of London, or of any other Town, and a Clerk by the King appointed to acknowledge his Debt, and the Day of Payment, &c. *Vide Stat. Burnel. 11. Edw. 1. Recog. 1.* And afterwards it is enlarged by the Statute *de Mercatoribus*, and a more speedy Remedy is given, *12. Edw. 1. Recog. 2.*

The Custom of London is, if a Man be Fugitive, who is Indebted; that the Creditor may Arrest him to find better Sureties, but he shall

not

56 Customs, &c. of London

not Recover before the day of Payment, 9 *Edw. 4. Lond. 24.*

Where one is Arrested in London, to find better Sureties, if the Suit be here in Trespass, or otherwise, and he comes by *Leg. Corpus*, although the Plaintiff be upon the Custom only, for which Remedy is at the Common-Law, yet the Prisoner may be Discharged, 9 *Edw. 4. 35.*

The Custom of London is, that one may be Arrested before the day of Payment, to find better Sureties, 11 *Hen. 6. 3. P. 1.*

Covenant without Deed.

In London an Action of Covenant lyeth without a Specialty, and divers other Actions by Custom, which do not lye at Common-Law, and of small Contracts under 40 s. for which an Action doth not lye by Writ, *Hen. 14. Hen. 6. 25. P. 1.*

Concessio Solvere, Upon a Contract made at Sea.

Of a Contract made beyond the Sea, and upon the Account between the Parties, If the Party, by Bill, grant to repay it upon their coming, *concessio solvere* lyeth in London upon the record; for before that Account there was no Remedy within *England*, nor no Remedy for it at Common-Law. And although that the Bill doth Denote the Merchandize, yet the *concessio solvere* doth not rehearse the Merchandizes Sold, but generally for certain Merchandizes, Goods and Chattels, *Sibi primo venditis concessio solvere*, *Hen. 6. 25. P. 1.*

Customs of London

Of Bailments for the Defendant.

By the Custom of London, he who is Bail for another for Debt, or Trespass, to answer the Action, that if he be Condemn'd, that the Plaintiff shall have Execution as well against the Bail, or one of them, as against the Principal, at his Election. And it was holden, that in such a Case he may maintain for the Charges that shall be upon him.

The Custom of London was alleg'd, that if any Matter be pleaded to Issue, which cannot be try'd by those of the City; that then the Party shall be Examined upon it, and then that Judgment shall be according to that which is found by the Examination; and if the Party refuse to be Examined, that then the Judgment hath been used to be given against him, *Book of Entries*.

Taking Goods to Pledge.

It was agreed, that the Custom to keep Goods of any Person put to him in Pledge by the Custom, untill he be paid, is not good; and if it were a Custom, is ought to be by ancient Charter of the King, and by continuance after. But the Custom of Antient London is good, and also that the Creditor may Arrest such Goods which the Debtor hath in his Possession; and that if none come within the Year to make Claim, that then they shall be Apprais'd for the Debt, and there some fair Merchant may be Sued without her Husband, as has been said before; and every one in London claims to have a Market in his Shop, and this Shop is his Market for such Goods as belong to his Trade, either in Buying

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or Selling. As if a Goldsmith buy Stolen Plate in his Shop openly, not knowing it to be Stolen, and give for it a Lawful Marketable Price, he may maintain it; but if he buy it in an Ale-house, or any other Tradesman's Shop, or in the Street, the Case is altered; it is Unlawful buying, not in the proper Market.

Sequestration by Custom of London.

By the Custom of London in an Action of Debt the Defendant shall have four Defaults, and if he cannot be found, but hath shut up his Shop, and is gone, a Precept shall be to the Sergeant at the Plaintiffs Request, to Sequester the Goods of his Houle, 11 Hen. 7.

2. R. 2. *Contribution.*

Debt was upon the Custom in London, because the Plaintiff, and 3 others were bound jointly and severally in one Bond, and one Pays all the Debt, or part, or the whole is recovered against him, he may have an Action of Debt for Partition against the other Obligors, Easter 1560.

Debts under 40 s. in London.

Every Citizen and Freeman of London, and every other Person Inhabiting, or that shall Inhabit within the City of London and Liberties thereof being a Tradesman, Victualer or Liverying-man, which have, or shall have any Debts owing to him, or them, not amounting to 40 s. by any Citizen or Freeman, [or by any other Person, or Persons, being a Victualer, Tradesman]

Tradesman, or Labouring-man, Inhabiting within the the said City or Liberties thereof, should, or might cause such Debtor, or Debtors to be Warned to appear before the Commissioners of the Court of Request in *Guild-hall*, and the said Commissioners, or any 3, or more of them shall have Power to set down such Orders between Plaintiff and Defendant, Creditor and Debtor, touching such Debts not amounting to 40 s. as they shall find to stand with Equity and good Conscience. And also the said Commissioners, or any 3, or more of them have Power to Administer an Oath to the Creditor, or Debtor, and to such Witnesses as shall be produced on either part, and also to commit to Prison in one of the Compters, such Creditor or Debtor, as shall not appear upon lawful Summons, or not perform such Order as the said Commissioners, or any 3, or more of them shall set, 1 *Jacobi* 1. 3 *Jacobi* 1. the first Act being strengthened by the latter, and by it the Court of Requests, commonly called the Court of Conscience, is Established to this Day; happy for the poorer sort, keeping them from many misfortunes that would else befall them, to the farther filling and crowding the Goals by Strifeless Vexations for small and trivial Matters, were not this Court able to restrain them to the great Ease and Security of poor people.

It is held before the Commissioners at the East end of the *Guild-hall*, *Wednesday* and *Saturday*, weekly, beginning usually about 11 in the Morning, and sometimes if Business require it, it may be sooner.

CHAP. XXXIX.

*Marking a Cause in the Mayor's Court, after
Verdict given in the Sheriffs Court is
done.*

There is a Practice in London, called, *Marking a Cause before the Lord Mayor*, which is after a Verdict given in the Sheriffs Court for the Plaintiff; in this Case, the Defendant is to mark the Cause mark'd before the Lord Mayor's Court, and is like an Injunction in the Chancery, to suspend Judgment and Execution, until the Matter is Examined in Equity, where the Lord Mayor doth oftentimes, if Cause be, Mitigate the Damages, or give the Defendant time to pay it.

Other Customs in London in this Court, &c.

The Custom of London is, if a Plaintiff of Debt be entered in the Sheriffs Court, upon Suggestions of any of the Parties, the Lord Mayor may enquire for both of them, and Examine them upon the Truth of the Matter before Judgment, and if he find that the Party is satisfied so much of it, he may bar him, but not after Judgment, to which *Stat. 14, 15.*

Where he is in the Reversion upon a Lease for a Year, is impleaded of Lands in London, and makes Default, the Lord Mayor is to enquire by Next Neighbours, in the presence of the Termor and Demandant, whether the Plea be moved by a good Right, or by Fraud, to make the Termor to lose his Term, and if it be found upon a good Right, the Demandant shall have Judgment presently; and if not, the Termor shall have his Term.

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Term, and the Execution of the Judgment shall be suspended; *Stat. Giltw. Chap. 11. Dist. 1.*

Of Foreign Attachments, &c.

By the Custom of London, one may Detach either Money or Goods of the Defendants, either in the Plaintiffs own hands, or in the Custody of a third Person, in either the Mayor or Sheriffs Courts, and there, if the Defendant appear not, the Goods or Money may be Condemned. The Attachment is entered in the Office, as Actions are, but with this Difference; they enter the hour of the day when the Attachment is made; for if many Attachments be made, and come against one Mans Goods, the first is first served.

He whose Goods are attached in another Mans hands, may come and offer himself to Prison, or put in Bail, and dissolve the Attachment, and after have a Writ of Privilege, though he tender himself to Prison *gratis*, because he was taken by Virtue of a Plaint. But the Plaintiff may have a new Plaint against the Defendant, and attach him by his Goods, and then the Defendant may remove it by *Certiorari*, and when the second Plaint is removed to the Common Pleas, the Justice shall Examine if the Goods were attached for Costs of Suit; and then the Defendant may be discharged, unless it be found by Oath, that they were attached for Merchandises, or for any Cause therebefore; it shall be Remanded.

But if the Party were in Execution in London, and afterward Suit is commenced in the Common Pleas. A Writ shall go to the Mayor and Sheriff, to have the Prisoner there, and make an Attorney, and then he shall be sent back; but if he were impleaded in the Common Pleas, and after

afterwards Arrested in London, and the Mayor's Court send for the Party, he shall be Discharge of the Suit in London, by the Privilege of a Mayor's Court. *M. 23. Hen. 6. 12. P. 2.*

When an Attatchment is made in the Hands of a third Person, there after a Default the Defendant within a Year and a Day, may put in Sureties Answer the Plaintiff the Duty, or may render his Body to Prison; If he cannot find Sureties; or therefore in a Writ of Privilege, after he has yielded his Body to Prison, he was Bailed, because the yielding his Body to Prison, was after the Issue in the Common-pleas, by the Defendant Given, where the Attatchment was before the Suit in the Common-pleas the Defendant was sent back again to prison in-London. But where upon a Capias out of the Common-pleas, and a Writ Returned, the Defendant is Arrested in an inferiour Court, returning to this Court, he shall have the Privilege of his Court, because it is an Arrest of his Body.

227 Note the Defendant shall not be Attached by such Goods as he carries with him to dispose upon his Suit which he hath here, although it be more than he need to discharge. But he shall have Privilege for them; so that they shall not be Attached after a Suit Commenced in the Common Pleas against him, although he cometh out of Town in a Vacation for the Defence of his Suit here. And this may suffice in this small Book to give the Reader an insight relation to the kind of Attachments; for further Instruction see in the Compleat Solicitor in Mayor and the Fifth Courts, &c.

to be put in writing with the Seal of the City of London, and to be signed by the Lord Mayor and Aldermen of the City, and to be kept in the City of London, and to be produced to the Court of Orphans in London.

By the Custom of the City of London the Lord Mayor and Aldermen of the City, shall have the Custody of all Orphans within the City, and they may commit the Custody of such Orphans to their Guardians; and if an Orphan be taken away from any other Man's care to whose Custody he is committed, he shall have a Writ of Habere Corpus ad Vincula, so that in this case the Court doth in some wise resemble the Court of Wards.

Likewise the Lord Mayor and Chamberlain of the City of London for the time being, shall have the keeping of all the Lands and Goods of Orphans within the City; saving to the King and other Lords, their Right of such as hold of them out of the same Liberty.

Executors and Administrators are to exhibit true Inventories before the Lord Mayor and Aldermen, and give Security to the Chamberlain for the time being, by Recognizance; and upon refusal so to do the Court may commit them to Prison till they shall do it.

And all such Recognizances or Bonds made to the Chamberlain concerning Orphans, shall go to him and his Successors, the Chamberlain of the City being a sole Corporation for Orphans. If the Ecclesiastical Court doth impugn the Custom of the Court of Orphans, and if any Orphan sue in the Ecclesiastical Court or elsewhere for a Legacy or any Duty due to them, the Court of Orphans may by Custom grant a Prohibition; Cole Institut. 4. Part Folio 249.

Also by the Custom of London, if a Father ad-
vance

vance any of his Children with any part of his Goods that shall her time to Demand any further, unless the said Father, under his Hand, by his last Will and Testament, doth declare, that it was but in part of Advancement, and then the Child so partly advanced, shall put his part so received in Hatch-potch with the Executors and Widow, and have a full third part of the whole accounting to him which was formerly given him as a part thereof, and this the Civil Law calls *Collatio Portionis*.

C H A P. XXXVI.

Of the Court of Common-Council for London.

THIS Distinguished Court is held by the Lord Mayor, Aldermen and Commonalty, resembling the High Court of Parliament, and consists of two Houses, *viz.* The Lord Mayor and Aldermen, being of the upper House, and such as are chosen in every Ward out of the Commonalty, constitute the lower House of Commons, and represent the whole Commonalty of the City of London.

Here they make Acts for the better Government of the City, and for the better Execution of the Laws and Statutes of the Kingdom, for the publick Good, and for the better Advancement of Trade and Traffick, so as these Laws be not Contradictory to Laws and Statutes of the Kingdom: and these Acts of Common-Council so made are binding within the City of London and the Liberty thereof, carrying with them the Force of Laws, &c.

Of the Court of Wardmote Inquest in London.

This Court resembles the Court of Leets, every Ward being as a Hundred, and the Parishes as Towns; and in every Ward there is an Inquest of twelve Men or more, Sworn every Year to enquire of, and present Nuisances and other Offences within their Ward, &c.

The Chamberlain's Court for Apprentices.

Before the Chamberlain of London all Indentures of Apprentices are, or ought to be Enroll'd, and if they be not Enroll'd, the Apprentice may sue out his Indenture at his Discretion in this Court, and so be discharged from his Master; and the Chamberlain is that Judge in all Complaints, either of Masters against their Servants, or Servants against their Masters, and to Punish the Offenders at his Discretion; and in this Court are all Apprentices made Free; and to be made Free, there are three several ways, viz. 1. By Service, as an Apprentice. 2. By Adoption or Birthright, as being the Son of a Free-man. And 3. By Redemption by the Order of the Court of Aldermen.

Of the Court of Conservator, and of the Water of the River of Thames.

The Lord Mayor for the time being, is the Conservator or Governor, and hath the Rule and Government of the Water of the River of Thames, its Issues, Breaches and Land-overs, from Staines-bridge to the Water of Twickenham and Medway, and hath Authority touching the Correction and Punishment of such as use

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use unlawful Nets and Engine in fishing or catching Fish under size or unseasonably, &c. 4 Hen. 6 Chap. 14. and in all Commissions touching the Waters of Lew the Lord Mayor of London is one, 27 Hen. (1) Chap. 14. And thus in brief we suffice to give a hint in these necessary matters be known by all Citizens and others whom it may in any case concern.

CHAP. XLII.

The Antiquity of a Constable, his Oath, and other things concerning his Office, &c.

THE Office and Duty of a High Constable, Petty Constable, Headborough, Tithing Man, &c. in the discharge of their weighty Affairs that they are obliged to undertake; with safe Directions how to act on several Occasions.

The Office of Constable is very ancient; for no sooner had King *Alfred* given the Danes, by fatal Breachtown and forced them to retire to their own Country, but for the better Ordering his Kingdom, he divided it into Shires and other Subdivision, as Tythings, Rapes, Wapentakes, Ridings, Lects, Boroughs, &c. The proper Officers being appointed in each County and Subdivision, the Civil Government might not only be well administered, but the People quickly gathered and brought to the Field, in order to quell any Insurrections and Invasions; and this proved so effectual for the preventing of Robberies, that Historians of good Account tell us the Roads were so well guarded that

Bracelets, Saddles, and other things of Value were fastned to Pillars in Cross Ways, and rarely any one was so hardy as to take them thence. This King began his Reign *Ann. Dom. 872.* And ended it 898. and is held to appoint the first High and Petty Constables in *England*, which Offices have ever since continued in good Esteem; nay, the *Saxon* Word makes the Antiquity of Constables plain in Etymology. The *Saxon* being *Coning* or *Cyng*, and *Staple* of *Stable*, which signifies a Stay or Prop to the King, that is, to the Government, in laying Hands on Offenders, and bringing them to Justice, and though the High Constable of *England's* Office, usually a Noble Man appointed by the King, is sealed, yet the High Constables of Hundreds in a great measure retain and hold up the Power, as to what concerns the Civil Government; and these are chosen most usually in each County by the Justices in their General Quarter Sessions, or their respective Divisions; for they have Power to give great Authority, and to discharge them of their Office, as they shall see cause.

The High Constable is as it were Overseer or Director of the Petty Constables, Headboroughs, or Tything-men, which are chosen under him, in the respective Towns, Villages, or Precincts within his Hundred, or such Franchises as are under his Jurisdiction, by the consent of the Inhabitants, or the Majority of them, and their Duty it is to execute the High Constables Office in his Absence, in keeping the Peace, and good Order in their respective Limits, and upon the High Constables Order to be aiding and assisting to him so far as concerns his Office. And now since both these are necessarily Sworn upon entering on their respective Offices, it will be requisite for the better understanding of what they undertake by entering

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on so weighty a Trust, to set down the Form of
their respective Oaths before the Justices, &c.

The Oath taken by a High Constable

You shall swear that you shall well and law-
fully serve our Sovereign Lord the King in the of-
fice of a Constable; you shall see and cause his Ma-
jesty's Peace to be well and truly kept and pre-
served so far as in your Power lyeth; you shall
Arrest all such Persons as in your Sight or Pre-
sence shall Rise or go Armed offensively, or shall
commit or make any Riot, Affray, or any other
Breach of his Majesty's Peace; you shall do your
best Endeavour upon complaint to you made, to
apprehend all Felons, Barretors, and Robbers,
or Persons Riotously assembled, and if any such
Offenders shall make resistance with force, you
shall Levy Hue and Cry, and shall pursue them till
they be taken: you shall do your best endeavour
that the Watch in and about your Hundred be
duly kept for the apprehending Vagabonds,
Rogues, Night-walkers, Evil-droppers, Scolds,
and other suspected Persons, and of such as go
Armed, and the like, and that Hue and Cry be duly
raised & pursued according to the Statute of the
second, against Murderers, Thieves, and other Fel-
lons; and that the Statutes made for Rogues,
Vagabonds, and such other idle Persons, be duly put in
Execution; you shall have a watchful Eye upon
such Persons as shall maintain or keep any Car-
mon House, or Place where any unlawful Game
is, or shall be used, as also to such as shall fre-
quent or use such Places, or shall use or com-
mit any unlawful Games there or elsewhere
contrary to the Statutes. At your Sessions,

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five, or Leets; you shall present all and every the Offences done contrary to the Statutes of the 1. 41 and 21 of James the first, to restrain the inordinate haunting and tippling in Inns, Ale houses, and other Victualling Houses, and for the suppressing Drunkenness; you shall likewise take presentment make of all Blood-sheddings, Affrays, Outrages, Robberies, and other Offences, committed or done against the Kings Majestys Peace within your Limits; you shall once every Year, during your Office, present at the Quarter Sessions all such Accusations within your Liberty, and their Children above Nine Years Old, and their Servants (viz. their Monthly Absence from the Church); *3 Jacob 1. c. 4. p. 4.* You shall well and duly execute all Precepts and Warrants to you directed from the Justices of the Peace of the County or Superior Officers; you shall be aiding to your Neighbours against unlawful purveyances; In time of Hay or Corn Harvest, upon request, you shall cause all Persons meet, to serve in the day for the Mowing, Reaping, or getting in of Corn and Hay; you shall in Easter Week cause your Parishoners to chuse your Surveyors for the mending the High Ways in your Parish or Liberty; and you shall well and duly, according to your Knowledge, Power, and Ability, do and execute all other things belonging to the Office and Duty of a Constable, so long as you shall continue in the said Office.

By this Tenor of an Oath, a Constable may gain a considerable Light into what he is to do, in the Management and Execution of his Office, being as it were an Epitome of what I shall hereafter set down more intelligibly and plainly to be understood: But this Oath is often administered to a Petty Constable, Tything-man, &c. So that what I now recite suffices.

The Petty Constable, &c. his Oath.

You shall swear that you well and truly execute the Office of a Tything-man, of the Tything of B. (or Headborough, &c.) his Majesties Peace in your Person, you shall keep and see it kept in others, as much in you lyeth; in the Presence of the High Constable, you shall be aiding and assisting to him, and in his Absence you shall execute his Office, according to your Power and Knowledge, till an other be chosen in your Place, or you be Legally Discharged. So help you God.

The High Constables in their respective Hundreds are Conservators of the Peace at Common Law, as are the Petty Constables in their respective Towns and Liberties, and have a large Power to back and support them in the Execution of their Office, if they proceed within the Bounds of it; for it is so ordered, that if an Action be brought against a Constable, Headborough, &c. or their Assistants, for any thing done by reason of their respective Offices, they may plead the General Issue, and give the special matter in Evidence, 7 Jac. 1. Chap. 5. 21 Jac. 1. Chap. 22. *Magist's Abridg. Stat. Tit. Evidence, &c.* And if it so happen any Action be brought against one or more of them, it is so provided, that it shall be layed in the County where the Fact commenced, and if the Verdict pass for the Defendant, he is to have double Costs; and this to be recovered as other Defendants recover their Costs, by 7 Jacobi 1. Chap. 5. 21 Jacobi Chap. 22. *Magist's Abridg. Stat. Tit. Evidence.*

For indeed a Constable Legally chosen is compelled to serve the Office, being a fit Man, able of Body and in Substante; and it would go hard

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For every trivial slip he should run the risk of being Ruined by Vexatious Suits; for if a Constable, &c. Legally Elected to the Office, do refuse to serve and take the Oath, unless a Quarter, and then, according to the late Statute for taking the Oaths, &c. his Affirmation will hold good in lieu of an Oath; he may be bound over to the Justices to the next Sessions or Assize, and may be Prosecuted for a Contempt.

After passing over these, I now come to direct the Constable, &c. in the more material Parts of his Office, wherein he may readily order and manage his Affairs, in discharge of his Duty, without running into Inconveniences, or Hazards, that may bring Trouble and Charges upon him: for whatever the Fancy of some is, a Constable is no more a Priviledged Man, than any other, where he exceeds the Bounds of his Office, in unaccountable Actions: And the first Particular I shall offer, is his Duty in Serving of Warrants directed to him by Justices in Commission for the Peace, or other Magistrates having Power to grant Warrants, and how far he may be safe in this, and where he may err.

C H A P. XLIII.

The Office and Duty of a Constable, Headborough, &c. in Serving, or Executing Warrants directed to him by Justices in Commission for the Peace, &c.

IF a Warrant be brought to a Constable, or other Sworn Officer, his safest way is to Charge the Party making the Claim, to shew him in the King's Name, and shew him the Party, or Parties mentioned in the Warrant, unless himself be well acquainted with him, or them, lest a Mistake by the Names agreeing, may run him into an Error, in taking the wrong Party; and if he be a Sworn known Officer, he may refuse to shew his Warrant; but must declare to the Party he goes to Arrest what is therein charged against him; but it is otherwise where a Warrant is given to be served by one who is not a known Sworn Officer; as a Justice's Servant, &c. For there upon demand he must produce the Warrant, or the Party on whom it is Served, may refuse to Obey, and Lawfully Resist.

If a Constable Arrest a Man or Woman in the King's Name, pretending he has a Warrant, and at that time has none, but presently goes and gets one, the Party may bring an Action of false Imprisonment against him, and recover such Damages with Cost, as shall be Awarded, *Case 6. 69.*

If a Constable have a Warrant against A. B. the Son of L. B. and he takes into his Custody A. B. the Son of R. B. though he happens to be the Offender against whom the Complaint was made,

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made, yet he goes from his Warrant, and doing thereby an unjustifiable Action, there lies an Action of false Imprisonment against him, 10 E. 4. Fel. 12.

If a Constable Arrests a Man with a Warrant from a Justice of the Peace, and having him in Custody, takes his Word to come again another time; by his so dismissing him, the Warrant is void, and cannot be Served again. But if a Refuse be made, or the Prisoner Escapes without the Officer's Consent, then upon fresh Pursuit he may take him with the same Warrant, as often as he is Refused, or Escapes, and may pursue him into another Town, or County, though he be out of sight, *Compt.* 214. 4. and 104 E. 4. 114.

If a Justice send a Warrant for a Matter wherein he hath Jurisdiction, though he goes beyond his Authority, yet the Officer is bound to obey it, and his producing his Warrant saves him harmless, the Justice being then to answer for it; but on the contrary, if a Justice Issues out a Warrant for a Matter out of his Jurisdiction, where he is no Judge of the Cause, the Constable is not bound to Obey it; for he is bound to take notice of the Jurisdiction and Authority of the Judge; and where the Justice, as is said, can be no Judge of the Matter charged in the Warrant, he is no more bound to Obey him, than if he had no Commission, 14 H. 8. Co. 10. 6.

If a Warrant be directed to an Officer to serve on a Person for ordinary Matters, the Warrant not specifying the Cause, but only to answer to all such Matters as shall be objected against him or her; this is held to be an illegal Warrant, and the Officer that Executes it lies liable to an Action

of false Imprisonment, *Cook's Institutes, part 4. Tit. de Frangens. Prison.* However for Reason of State Warrants for Treason, or such as are Granted by the Lords of the Privy Council, Secretaries of State, or the Lord Chief Justice of England; these need not set forth the Cause, by reason they are usually granted on Matters of great Importance, where Secrecy is required.

If any Party be taken by a Legal Warrant, and make Resistance, the Constable in the King's Name may command Assistance; and if the Resisting Party be Beaten, or Wounded, the Amends is in his own Hand, for Opposing the King's Authority; but if the Constable, or any of his Assistants be Beaten or Wounded the Party is Indictable, as likewise liable to an Action at Common-law; and if any of them Die of the Beating and Wounds within 12 Months, it is Murder.

Persons refusing to assist a known Sworn Officer, charging them in the King's Name, lye liable to be bound over to the Sessions, and Fined at the Discretion of the Justices; and the like for those that shall contemn or abuse a Justices Warrant, by tearing, treading under Foot, or any way defacing it, &c. over and above being bound to the good Behaviour; for it is a Contempt against the King's Process, *Crompt. 144.*



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CHAP. XLIV.

The Office of a Constable, &c. How it ought to be executed, relating to Affrays, &c.

If a Constable be present at an Affray, he may command the Standers by in the King's Name to assist him in keeping the Peace, and upon Complaint of the Constable, the Inquest may indict the Party refusing, and be Fined by the Justices at their Sessions, for refusing to do his Duty.

If a Constable, or other such like Officer be present when one Man or Woman Assaults another, or with violent Words threatens to beat or kill any one, and be in a fury, ready to break the Peace. In such case the Constable, Headborough, &c. may commit the Offenders to the Stocks, on some other safe place of Custody, till he can carry them before a Justice, who may upon Complaint compel them to find Sureties for the Peace or good Behaviour; and for want of such Sureties, commit them to Prison, 3 li. s. 4 d. and 10. Broom's use of the Law, c. 1. s. 1.

Where any Affray is like to be, the Constable in the King's Name may command them to depart on Pain of Imprisonment; and if they refuse, he may take them into Custody, or Indict such as refuse, if any harm be done, at the next Sessions; and if a Constable be present at an Affray, and does not his Endeavour to prevent it, and seize the Offenders, he lies liable upon a Presentment of the Jury to be Fined, Dalton's Justice of the Peace, c. 1. Fol. 4. 5.

A Constable may resist the Affrayers after Proclamation made to depart, and compel them

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that by force, and Who, or any of his, shall be Wounded, they have their Remedy by Statute and Common-law, and if Killed, or Dying of their Wounds, it is Murder in the Affrayers, *Lein. 13. 1 Hen. 7. 7. 3 B. 7. 10.*

If the Affrayers be in a House, the Doors locked or bolted, the Constable may break them open to put the Affray, and keep the Peace, though some have taken hurt; and if they fly into another House, the Constable upon fresh Pursuit may break into that House to apprehend them, and so till they shall be taken; *Lein. 13. 7 Ed. 4. 12.*

If any be dangerously hurt in an Affray though the Constable be not present at the Affray, yet may he seize the Offenders, and carry them before a Justice of the Peace, who is to require Sureties of them, or the Wounds being supposed Mortal, to commit them to Prison, till he be certified by Chyrurgeons or Physicians, who say the Party will live or Die, *Dalt. 1. 2. Fel. 33.*

After the Affray is over, the Constable not being present at it, cannot seize them without Warrants, unless some one be dangerously Wounded, and much Blood drawn. If Affrayers escape into an other County, or Franchise, a Constable upon fresh Pursuit may seize them there, and carry them before a Justice of the Peace of the same County to find Sureties for the Peace; but then he must see the Affray.

All Quarrels are not properly Affrays; for to make it such there must be some Blows given, or offered to be given; for hasty Words will not warrant an Affray, unless they threaten to Beat, Kill, or Wound one another; and in such Case a Constable may apprehend the Offenders, and carry them before a Justice, to find Surety for the Peace.

Words; and yet such threatening Words are not properly taken for an Affray, *Dalt. Just. P. c. 9. Vol. 24. 38. Item 8.*

CHAPTER XLV.

The Constables Office relating to Arrests, or Escapes of Prisoners, Felons, &c.

IF upon a Constable, or any Sworn Officer of the Peace, having Arrested a Felon, or taken any Person into Custody on Suspicion thereof, and he is convicted at his Escape, or giveth him leave to go out of his Custody at Liberty, so that he does escape, it is no Felony in the Prisoner, but it lies upon the Constable, and he shall Answer for it; but if the Prisoner accidentally escape without the Constable's Consent, he is not Guilty of Felony, and the Constable is liable for his Negligence.

If a Constable by his Negligence let a Prisoner in his Custody have Opportunity to make away with himself, by Stabbing, Drowning, or any violent Death, he is Blamable, *Dalt. Just. P. c. 16. Vol. 272.*

Where a Felony is committed, and one is taken by a Constable on Suspicion of committing it, though afterward the Constable be very well satisfied he is innocent, yet may not be discharged him without carrying him before a Justice of the Peace; for being once taken into Custody, he must be delivered by due course of Law; nor may a Constable suffer the Compounding any Felony; for if it be done after he Arrests the Party, or before, he is to declare his Knowledge of such Compounding before the Justice, or for

Conspiring to Extenuate the Fact, and let the Prisoner at Liberty, he is Finesable; and some hold he may be brought in as an Accessary.

A Constable may use all lawful Means to secure his Prisoner, as setting him in the Stocks, or putting Irons on him, if he be Unruly, till he can carry him before a Justice; or Pinion his Hands behind him with Cords, to prevent his Escape in carrying him thither, or to Prison.

If the Goaler will not receive a Prisoner of a Constable where he is lawfully committed, he must not however let him go, but bring him back to the Town or Village where he was taken, or where the Constable dwells, and the Town where he was taken shall be at the charge of keeping him until the next Goal Delivery, to be raised by way of Tax amongst the Inhabitants; if the Prisoner has no Money or Goods to defray it; and in such Case the Goaler shall be Punished by the Justice in their Sessions or Assize, for his Refusal and Contempt. If there be much Charge in carrying a Prisoner to Goal, the Inhabitants where he was taken may be obliged to contribute to it, to be Levied by such of the principal Inhabitants as shall be thereunto appointed at their Discretion.

C H A P. XLVI.

The Office of a Constable, &c. In Relation to Hue and Cry, and how he must discharge his Duty therein.

When a Hue and Cry is Levied and issued out, whether for Robbery, Murder, &c. when it comes to the Hands of a Constable, Headborough, Tythingman, &c. They

shall forthwith make diligent Search in all suspected Houses, Barns, and Out-houses, and other Places at their Discretion, and all Places within their Liberty or Precincts, and have Power to stop any Suspected Persons, as in Search or Pursuit they shall find or suspect to have done the Fact, comparing him or her, or their Horses, with the Description given in the Hue and Cry, and if Cause be found to carry the Party before the next Justice of the Peace in the County where taken, there to be strictly Examined where he or they were at that time of the Fact committed, and for the neglect of this Duty, the Officer liable to be Fined by the Justices in Sessions, and Search being diligently made, must without delay send it to the next Constable or Officer of the Peace, unless the Party or Parties be taken who are known to have committed the Fact mentioned therein, *Dalt. Just. P. c. 28.*

Where a Robbery is committed in a Hundred, and the Hundred is sued for it, though the Damages are recovered against one or two of the said Hundred, yet they are not to bear the Charge, but the rest must proportionably contribute according to their Ability; and two Justices of the Peace, one to be of the Quorum, dwelling in or near the said Hundred, may set a Tax on every Parish within it, and then it is the Duty of the Constable or Tythingman of each Parish to levy the Gross Tax proportionably on the Inhabitants in particular, and may upon refusal of Payment make Distress and Sale of Goods, delivering the Overplus on due Appraisement to the Owner; and the Money so collected is to be put into the Hands of the Justices, or some of them that made the Rate, within Ten days after, according to 27 *Eliz. C. 7. 13. &c.*

If such profits on the Hue and Cry shall come to any Hundred, it is lawful to pay half the Summings to the Hundred wherein the Robbery was committed, to be recovered by Action in any of his Majesty's Courts at *Westminster*, at the suit of the Clerk of the Peace for the County; and though in the mean time he die or be changed, the Suit shall not fail or abate; and when so recovered, it is to be levied on the Inhabitants of the County as of Tax at the former, 27 *Edm. Chap. 1.*

If any one of the Robbers be apprehended and brought to Justice and Convicted, it saves the Hundred their Money, because it is looked as they have regard to watching the Roads for the secure Travelling of Passengers. Also when the Action is not brought within one Year after the Robbery committed.

The Robbery must be committed in the King's High Way, between Sun-rise and Sun-set, and Oathmade of it, with the Summ' lost, before the next Justice of the Peace, with all convenient speed. The Hue and Cry thereupon raised out, must be made with Horse and Foot, or else it is held illegal, *Brass Book 3. Folia 121. Dalt. Jus. P. Vol. 133.*

Who so goes not Armed and fully prepared at the Command of the Sheriff, or Constable, when the Hue and Cry is raised out, (to Arrest the Robbers or Pelons) after assainder may be severely fined and Imprisoned *Westm. 1. Chap. 9. the second part of Institutes, Folia 172.*

C H A P. XLVII.

The Constables Office, &c. In what more particularly Relating to the Conservation of the Peace.

THOUGH a Constable may do his Endeavour to keep the Peace, yet if it be broken, he cannot

shall not be taken for it at the request of any one. 2 R. 2. fol. 21.

Where a Warrant of the Peace is issued, the Constable or other Officer ought to arrest the party with it, and charge him to keep himself close, and go along with him, to put in Sureties, if he can; and if he refuse so to do, then to compel him to do so, and if it be an unreasonable time, that the Justice be in Bed, or not to be found, he may leave him under a Guard, or in Prison, till he be in Bed, or till he can convey him home. A Justice of the Peace is not bound to run up and down from house to house with him, nor to let him stay, delaying till the Prisoner can find his Sureties, but may immediately carry him before the Justice to be tried, and not submit it to the Prisoner's Election, nor to that of the Party that makes the Complaint, unless the Warrant is special, of which particular I shall speak more fully in another place.

Constables have a Warrant of the Peace against a Person to find Sureties, where the matter is palpable, the Party having notice of it, may evade it, by putting in Surety before another Justice, to answer the Complaint at the next Sessions, unless if that Justice, being of the same County, send a Superfedeas to the Officer or Justice that gave the Warrant, and so notwithstanding arrest the Party to find Surety, or imprison him, he may bring his Action of false Imprisonment against the said Constable, or for the like contempt of the Officer upon a Superfedeas out of Chancery, or the King's Bench, for a Superfedeas is a Discharge of the former Warrant. 2 Inst. J. 2. Chap. 29. folio 119.

Upon Notice given to a Constable or other Peace Officer, or if it be upon his or their own

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own Knowledge that a Man or Woman notoriously cohabit together, or live in Fornication, being of Evil Report, he may search any suspected House for them wherein he is informed or knows they are in the Night time, and there apprehend them and carry them before a Magistrate to find Sureties for their good Behaviour, 23 R. 7. 10. *Dalt. Just. P. Chap. 75. Folio 189.*

If any one abuse or affront a Constable in the Execution of his Office, either by Word or Action, he may have him bound over to the good Behaviour for such his Offence, and Fined before the Justices in their Sessions as they see fit upon Proof, &c. *Fitz. 207. Crim. 135.*

All injurious Force and Violence used against the Person, Lands, Goods, or other Possessions or Chattels, of a Man or Woman is held a breach of the Peace, whether it be by threatening Words, Perious Gestures, or Bodily Force, *Dalt. Chap. 3. Fol. 9.*

Note, upon any Disputes in an Alehouse or Tavern, &c. about paying the Reckoning, and the Parties offer to make the Escapes without paying, if there be no Swords Drawn, Beating, Wounding, or visible breach of the Peace, the Constable is not bound to go though sent for, nor is it Warrantable for him to Arrest and carry them before a Justice, unless a Warrant be put into his Hand; for this is only a Debt, and the Party aggrieved must bring his Action, for the Credit he gave for the Victuals or Drink, &c. being freely delivered by his Consent, and those Constables that are over-Officious to trouble themselves this way, may bring themselves into Trouble, and only be laughed at by those that set them on work, and counted their Stalking Horses.

No Warrant, Writ or Process shall be served on the Lords Day, commonly called Sunday, ex-

...for Felony, Treason, or the Breach of the Peace; for otherways the Service shall be void, and the Justice may discharge the Warrant without examining the Parties, and the Party serving it shall be obliged to answer Damages, as if no Warrant had been to the Party who is Arrested and detained by such a Warrant on the Lords Day. 16 Caroli. 2. Chap. 7.

C H A P. XLVI

Of the Office of a Constable, &c. Relating to the strict Observance of the Lords Day

If any Butcher Kill and Sell any Victuals on the Lords Day, or any one do it for him, the Constable by Distress and Sale of his Goods may levy 6 Shillings 8 Pence upon Warrant from a Justice, &c. But the Complaint or Information must be made within six Weeks, and the Party before a Justice of Peace, Mayor or Chief Officer, upon their own view, proof of two Witnesses, or the Parties own Confession, and they may at their Discretion gratify the Informer with the third part of the Penalty, 3. Jac. 1. Chap. 1. Daltons Just. P. Chap. 50. Fol. 134.

If any one on the Lords Day be present at, or keep any Shooting, Wrestling, Ringing of Bells for Pleasure, Bowling, Church-Ales, Wakes, Meets, or any Games, Sports or Pastimes whatsoever, they shall forfeit Five Shillings, if above the Age of 14, if under that Age 1 Shilling, to be paid by him or her that has the Government of the Party, to be levied by the Constable on Sale of Goods taken in Distress, by Warrant from a Justice of Peace or Chief Magistrate, and for

want of such Distress the Offender to be set in the Stocks for the space of 3 Hours: And any Carrier going by way of Travelling with his Horse on this Day, or any Carrier, Waggoner or Wayman going with any Cart, Waggon, Wain, or Dray with Cattel, Forfeits 20 s. for every such Offence, to be levied by Distress and Sale of his or their Goods, if charged and duly convicted within six Weeks after the Offence committed, as in the Case of Butchers, and the Money shall be had to the use of the Parish where the Distress is first made; for though they pass through several Parishes, yet are they to pay but 20 s. for one Journey, 1 Car. 1. Chap. 1. Dist. Chap. 50. Folio 134.

If any Bull-baiting, Bear-baiting, Enterludes, or other unlawful Games and Pastimes of the like Nature, be held in the Parish or out of the Parish on the Lords Day, upon Warrant to him directed, the Constables, &c. may levy 3 s. 5 d. by Distress and Sale of the Offenders Goods, regarding the Overplus to the Owner, if any be, or for the Party for want of such Distress in the Stocks by the space of 3 Hours, but then the Party offending must be questioned within the space of a Month after the Offence committed, 1 Car. 1. Chap. 1 Dist. Just. 7. Chap. 23. Folio 6.

None shall do any work by Labour or Business on the Lords Day, Works of Necessity and Charity only excepted, but that the Offender if above the Age of 14 Years, or upwards, shall forfeit 5 s. None shall cry and expose to sale any Wares that Day, or gain to forfeit them, except Milk, and that before Nine in the Morning, and after Four in the Afternoon. No Dray, Higer, Horse-draw, Butcher, or their Servants shall Travel on the Lords Day, upon pain of for-
feiting

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Acting 104. No Person shall Travel on this Day on Horseback, or with Boat, or Wherry, unless on extraordinary Occasions, to be allowed by a Justice of the Peace or Head Officer of the Place, under penalty of forfeiting $\$1$. No Hackney Coaches to Travel that day, unless such as are allowed by the late Act of his present Majesty King William 3. &c. for Licensing Hackney Coach-
es, &c. 19 *Caroli* 2. Chap. 7. And Penalties under this Act are for the use of the Poor of the Parish where they are levied, or the Offence committed, saving the Justice or other Head Officer any reward the Informer if he think fit, with a Third Part. And further note, that the Prosecution of this Act must be made within 10 Days after the Fact committed.

Dressing Meat in Inns, Cooks Shops, and private Families are not prohibited on the Lords Day, by the Statute of 19 *Caroli* 2. And for the better encouragement of the Mackerel Fishery, they are in the Season to be Sold on this Day, but before and after Sermon time only.

C H A P. XLIX.

The Office and Duty of a Constable, &c. required about hired Servants, Labourers, &c.

If Labourers are wanting in Harvest or Hay time, the Party so standing in need, may require the Constable to cause such Persons as he thinks fit to Mow, Reap, or do any Work relating to getting in the Hay and Corn Harvest, and they to be payed by the Day, according as they are able to perform, and if they shall refuse to work after they are requested thereunto by the Constable, he has Power to set them in the Stocks
by

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by the space of two Days and one Night, and upon the Constable's neglect to perform his Duty in this Case, he forfeits 40 s. § *Eliz. Chap. 14.*

Servants, &c. After the time of their Work be expired, they being employed in Husbandry, or any Arts appointed in that Statute, they shall not depart the Parish, City or Town where they last served, to any other without a Testimonial, (that is) in a Town Corporate, under the Hand and Seal of the Chief Magistrate and two Householdors there, and in the Country, under the Hands and Seals of the Constable or other Officers, and two Householdors of the said Town or Parish where he or she last served; and the Minister is to receive Two Pence for Registering the said Testimonial, which is to be delivered by him to the Party whose Name is mentioned therein, according to the Statute of the § *Eliz. Chap. 5.* and the Testimonial is to run in this Form.

The Form of a Testimonial, &c.

Memorandum, That John Digs, Servant to James Dillson of Stretsham, in the County of Surrey, Grazier, is licensed to depart from his said Master, and is at full Liberty to serve elsewhere according to the Statute in that Case made and provided; in Witness whereof we have hereunto set our Hands and Seals on the 28th. of September, in the 12th. Year of the Reign of our Gracious Sovereign Lord King William the Third, and in the Year of our Lord 1700.

James Wade Constable of Stretsham.

Richard

Richard Tims }
John Nobs } Householders there.

If the Party lives with a Widow or any single Person, then instead of Master set down Mistress, or Dame, with the Womans Name, and the Name of the Servant, be it Man or Maid Servant, or what else they term themselves; and if the Parties they live with be Handycrafts, or any other Calling, their Calling, with their Names, and the place of Abode, must be set down and specified in all respects, as aforesaid.

He or She that Entertains any Servant without such a Testimonial, forfeits Five Pounds, being lawfully Convicted upon Indictment before the Justices in Sessions, and every Servant not producing such a Testimonial to the Mayor, Constable, Churchwarden, Minister, or other Officers empowered to inspect it, may be Imprisoned till such a one be procured; and if he or she procure not one in 21 Days ensuing the Day of Imprisonment, or produce a false and counterfeit one, he or she so doing is to be Whipt, and used as a Vagabond, 5 *Elizabeth* Chap. 4. *Dalton* Just. P. Chap. 21. Folio 63. And this Statute relating to Testimonials, was punctually observed, tho' of latter days it has not been much regarded, that people taking Servants at they knew not what Hand, have been frequently Robbed by them, not knowing afterwards where to find them or enquire after them, and therefore it would be well if it was yet strictly kept in use; and indeed the penalties are in as much force to be inflicted as ever.



C H A P. L.

The Office of a Constable, as to what he is to do relating to Popish Recusants and Conventicles.

ANY one exceeding sixteen Years of Age, being a Popish Recusant, must within 40 Days after Conviction repair to their usual and known Dwellings, and not to remove five Miles thence, under Penalty of forfeiting all their Goods, Lands and Chattels, Annuities, &c. during Life; and if they can assign no certain place of Abode, then are they to repair to the place of their birth, or where their Father or Mother dwell, if they are living, and in 20 days after their Arrival put in their Names to the Minister, Constable, or Headborough in Writing, which Minister must enter them in a Book to be kept for the purpose, and he with the said Officers are to certify the same the next Quarter Sessions, where the Justices of Peace are obliged to cause the same to be enrolled, 35 Eliz. Chap. 2. *Wingate's Case*. The Crown.

Note, that the Church Wardens and Constables of every Parish, or one of them; and where there are none such, the High Constables of the Hundreds are every Year once in the Year at the General Sessions held for the Peace, to present Popish Recusants for their Monthly Absence from Church, and return the Names of their Children above Nine Years of Age, being then with their Parents, also their Servants, together with the Age of their Children, as near as they can compute, or to forfeit 20 s. for every such Default, which Presentments the Town-Clerks, or Clerks of the Peace are to Record, without taking Fees for them, under a Penalty of 40 s. 3 *Faulstich's Case*.

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Chap. 4. *Wingates Statutes*, Tit. Crown. And if the Minister, Petty Constable and Church Warden of any Parish shall make a Complaint to the Justice of Peace, that he or they suspect such a one to be a Popish Recusant, but have no Proof of it, then the Justice may tender the Party the Oaths in that case appointed; and upon Refusal, if above the Age of 18, he may commit the Party to Prison till the next Assize, and then if again refused, it is Premunire in a Man, but a Woman Recusant shall only suffer Imprisonment, and remain without Bail till she take the Oath of Allegiance, &c. / *Jacobus 1. Chap. 6. Wingates Stat. Tit. Crown, Dist. Just. P. Chap. 45. Folio 108.*

By a Statute, the first of *William and Mary*, no Papist, or reputed Papist refusing to make and subscribe the Declaration, they are obliged to by the 30 *Carol. 2.* and the Oaths enjoyned in an Act for removing and preventing all Questions, &c. about the Assembling and Sitting of this present Parliament, shall at any time after the 15th. Day of *May*, 1689, have, or keep in his own Possession, or at his Disposal any Horse, or Horses valued above Five Pounds, they are to be sold; and that any two or more Justices of the Peace, by a Warrant under their Hands and Seals, may or shall Authorize any Person, or Number of Persons, assisted by a Constable, or his Deputy, Headborough, or Tything-man, who are therein required to be Aiding and Assisting, to search for, and seize the use of their Majesties and their Successors, all such Horses above Five Pounds value, as aforesaid.

And further note, that upon any time a Proclamation being issued out to remove Papists at a distance from the City of *London* and *Westminster*, other Cities and Towns Corporate; the Constables

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files by Warrant from the Justices of Peace, are to make diligent search, and give in the Names and places of Abode of such as stay beyond the time limited; that so they may be prosecuted for their Contempt.

And note, that ignorant persons may not be mistaken, by bearing too much upon the Act made in the first Year of K. W. Q. M. for Exempting their Majesties Protestant Subjects dissenting from the Church of *England*, from the penalty mentioned in the 35 of *Elizabeth*, and the 22 *Carol* 2. It is thereby Enacted, That all persons that take the Oath, and make and subscribe the Declaration therein mentioned, shall not be liable to the penalty of the two former penal Acts against Conventicles. However if any such Assembly of persons Dissenting from the Church of *England*, meet for Religious Worship, with the Doors Locked, Barred, or Bolted, during any times of such Meeting together, all and every such person, or persons that shall come to, and be at such Meeting, shall not receive any Benefit from the new Law, but be liable to all the Pains and Penalties recited in the Statute of 35 *Eliz.* and 22 *Carol* 2. for such their close and concealed Meeting.

And further, if any person differing from the Church of *England*, a Protestant Dissenter, shall be chosen to the Office of High Constable, Petty Constable, Churchwarden, or Overseer of the Poor, or any Parochial, or Ward-Office, any such person shall scruple to take upon him any of the said Offices, in regard of the said Oaths, or any other Matter or Thing required by the Law to be taken or done, in respect of such Office, may execute the said Office or Offices by a sufficient Deputy by him to be provided, that will comply in taking the Oath

Of Swearing to Controversies, &c. 117

Each, &c. And such a one as shall be well approved.

Note that the People called Quakers, in Cases of Oaths, may tender their Affirmation by Virtue of a late Act of His present Majesty King William the Third, and that in Breach of such Affirmation they incur the Penalties, as in case of Perjury.

CHAP. LI.

A Constable's Office relating to such as shall disturb Ministers in some of Divine Service, &c. And what relates to Physicians.

To keep Peace and Decency in Churches, Chappels, and such like Places of Divine Worship.

Note, That if any one, not having Authority to do it, shall disturb a Preacher Lawfully Licensed, Preaching, Praying, or at the Administration of the Sacrament, either by entering into Dispute, Humming, Talking, Laughing, or any voluntary Disturbance in Ridiculing, &c. Any Constable or Church-warden of the place is Authorized immediately to Apprehend him or her so Offending, and carry the Party before a Justice of the Peace of the same County, who may commit the Offender to safe Custody, and within six Days, Consult with another Justice of the Peace examine the Matter, and if it be evidently proved by two Witnesses, Commit him or her to the Common goal, there to remain by the space of 3 Months, and from thence to the next Quarter Sessions; where upon the Offenders Reconciliation, and entering into good Security for his good Abearing by the space of one whole Year

he may be Released; but upon standing in Contempt, and remaining obstinate, he shall be continued in Prison without Bail till Penitent, *1 Mary 1. Sess. 2. Chap. 2 Wingate's Stat. Tit. Sacraments, &c.*

And any one Rescuing such an Offender shall suffer the like Imprisonment; and over and above forfeit *4 l.* And the Inhabitants suffering such an Offender to escape, upon Presentment before the Justices in their Sessions of the Corporation or County, by the Authority aforesaid, are liable to forfeit five Pounds.

In the City of London, and seven Miles adjacent, the Constables and other Officers are to be Answering to the President of the Physicians College, in order to the due Execution of the Laws and Statutes belonging to the said College, on Pain of a Contempt against the King's Majesty, according to the Statute of *1 Mary 1. Sess. 2. Chap. 2. Wingate's Stat. Tit. Physicians, &c.*

C H A P. LII.

The Duty and Office of a Constable in any Calamitous Time of Plague and Pestilence, &c.

IF Persons Infected with the Plague, be Constables commanded to keep their Houses, and yet Contemptuously go abroad and converse with other People, then having the Plague Sore upon him or her, it is Felony; and if Infected, and not having any Plague Sore, yet for such Offence they are liable to be punished as Vagabonds by the Order or Appointment of a single Justice of Peace, and further be bound to the good Behaviour for the space of one whole Year upon Proof the Infection at the time he

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or for so Offends, 1 *Jacobi* 1. *Chap.* 13. *Wingate's Stat. Tit. Plague, Dist. Just. P. Chap.* 39. *Folio* 91.

If a Constable, or such other Officer whom it concerns, shall neglect, or willingly refuse to Levy the Money by Warrant under the Hands and Seals of two Justices of the Peace, upon the Statute for the Relief of any Town or Place Infected with the Plague, by Distress and Sale of the Goods of such persons as neglect or refuse to pay, on such emergency for every such Offence, the said Officers are liable to forfeit Ten Shillings, to be distributed among the Sick, as by the Statute is directed, 1 *Jacobi* 1. *Chap.* 13. *Dist. Just. P. Chap.* 39. *Folio* 91. *Wingate's Stat. Tit. Plague.*

The Justices of Peace, one, or more of them as to appoint in their several Limits, Watchmen, Keepers, Searchers and Buryers; as likewise may the Head Officers in Towns and Corporations do the same. And if any Infected person, contrary to the Commandment of the Justice, Constable, or other Head Officer, &c. shall wilfully attempt to go abroad and Resist their Keepers, or Watch-men, they may Restrain them by Violence, and Compel them by Force to keep their Houses; and if they be Hurt or Wounded, the Watch-man shall not be Troubled for it, because it was their Duty after such Warning to have kept their Houses, 1 *Jacobi* 1. *Chap.* 13. *Crump.* 122, &c. *Dist. Just. P. Chap.* 39. *Folio* 91. *Wingate's Stat. Tit. Plague.*

C H A P. LIII.

The Office of a Constable, &c. Relating to Riots and Riots, and what they are.

THE Power of a Constable in Disorders of this Kind is very great, and it is his Business to be diligent in Suppressing them; as also that of the Sheriffs, and others the King's Officers, by reason such Tumults are of dangerous Consequence to the Government, and many times, as it has been known, from small beginnings, broke into open Rebellions, and disturbed the Peace of the whole Kingdom; and therefore,

Note, where three or more Persons shall Meet and Assemble themselves together, to the intent to do any unlawful Act with Violence or Force against the Person of another, his Possessions or Goods; as to beat, kill, or otherwise to hurt, or without Authority to Imprison a Man in his own House, or elsewhere. To pull down a Wall, Pale, House, Hedge, Ditch, or wrongfully to enter upon, or into the Possession of another Man's House or Land, &c. Or without Right to cut or take away Wood, Corn, Grass, or other Goods, or Unlawfully to Hunt in any Wain, or Park; or with Force or Violence or any other unlawful Act against the King's Peace, to the manifest Terror of the people. And if they only meet to such Intent or Purpose, though they afterwards depart of their own accord, without putting their Intention in Execution; it is nevertheless an unlawful Assembly, by reason their first Intention which occasioned them so to Assemble, was with an evil Design, *Bro. Tit. Riots 4, 5. Co. 3. Part Instinct.*

C H A P. LIV.

*The Office of a Constable, in what concerns it re-
lating to Rogues, Vagabonds, sturdy Beggars, &c.*

TO disencumber the Kingdom of lazy per-
sons who loyter about, and decline Work-
ing, in expectation to live upon others Labours by
Beggings or Pilfering, the Law has in the fol-
lowing manner provided against such Nuisances.
Therefore,

The Constable, Headborough, or Tything-
man, assisted by the Minister, and one other In-
habitant of the Parish, may take any Rogue, or
sturdy Beggar, Vagabond, &c. they shall find
Loytering up and down in their Parish, or Pre-
fect, and strip him or her naked from the middle
upwards, and whip, or cause to be whipped
openly, the said Rogue or Vagabond till the
Body be bloody, and then forthwith be sent away
from Parish to Parish, or Tything to Tything,
the next strait way guiding or leading to the
place of the Birth of such Vagrant; and if that
may not be known, then to the place where he
or she last Inhabited, or Resided by the space of
one whole Year before such punishment inflicted;
and if that be unknown, then to the Town
through which the party last past Unpunished;
and being there, if it cannot be discovered
where the party was Born, or last dwelt, then
the Constable of that Town, or place is to con-
vey him or her to the House of Correction, or
Common-goal of the County, there to be em-
ployed at hard Labour, or put to Service for the

space of one Year; and if disabled by Age or Casualty as maiming, &c. and so not fit for Labour, that Town is to be at the Charge of keeping the said Vagrant till such time as he may be placed in some Almshouse within the County, by 39 *Eliz.* Chap. 4. *Wingate's Stat. Tit. Vagabonds, Bulst.* 2. part Reports, Folio 257. *Repl. Judges, Sect.* 417.

It is further provided that after such punishment is inflicted, that the Vagrant shall have a Testimonial under the Hand and Seal of the Constable, Tythingman or other Officer, subscribed also by the Minister of the Parish, testifying the Place and Day of such Punishment being inflicted, and the time he is to have in going to the Place to which he is directed; and if he or she loyter by the way till the time is out, such Punishment may again be inflicted, and so as often as the Default is made, till arrived at the limited Place; and such Testimonial Especial in Substance is to be registred by the Minister in a Book kept for that purpose, or in defect he to forfeit 5 s. *Dalt.* Folio 129.

CHAP. LV.

A Copy of a Testimonial in Manner and Form as in this Case the Law directs.

N. Y. **A** Sturdy Vagrant Beggar aged about 30 Years, of middle Stature, black Hair, fresh Coloured and Round Visaged, with a Cut on his left Cheek, was this 26 Day of September in the 12th Year of the Reign of our Gracious Lord King William the Third, &c. openly whipt at D. in the County of C. according to the Law, for a wandering

ding Rogue and Vagabond, and is assigned to pass forthwith from Parish to Parish by the Officers thereof, the next Straitway to L. in the County of M. where he declareth himself to be Born; and he is limited to be at L. aforesaid within 14 Days next ensuing the Date hereof at his Peril. Given under the Hands and Seals

in } James, Furbs Minister,
and
Timothy Darcy Constable of D.

Given the Day and Year aforesaid.

This may be granted also by a Justice of the Peace alone under his Hand and Seal.

And if the Act of the Thirty ninth of Elizabeth be neglected in the Execution of it by any Constable, Tythingman, Headborough, &c. he so neglecting forfeits 1*0*s. for every Default, and he that hinders any Execution of this Law, upon Rogues, and Vagabonds, incurs the Penalty of five Pounds, and may be bound over to the good Behaviour. And if a Constable or Peace Officer who ought to do it, refuses such Rogue, or Vagabond, or if he does receive him and does not carry or send him to the next Constable, in order to his being sent to the place appointed, he forfeits for every such Offence Five Pounds, and the Justice furthermore may bind him over to the good Behaviour, 39 Eliz. Chap. 4. Dalt. Chap. 47. Folio 128, &c.

If any such sturdy Rogue, or Vagabond shall come begging to any House, the owner of it seeing it, is to apprehend him or her, and deliver the Offender to the next Constable, or else he forfeits Ten Shillings, and the Constable, if to

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whip and convey such Rogues as before directed under the Penalty of 20 s. *1 Jacobi* (1) Chap. 7. *Dalt.* 147. Folio 128.

Two Justices of the Peace, one to be of the *Quorum*, may by Warrant under their Hands and Seals cause to be levied by Distress and Sale of the Offenders Goods all Forfeitures and Fines before mentioned, the party being first convicted either by his own Confession or the proof of two Witnesses before the said Justices, 39 *Edw. 3. Chap. 1. Jacobi* (1) Chap. 7. *Dalt.* Chap. 47. Fol. 145.

Constables, Headboroughs, or Tythingmen, neglecting to make search for Rogues or Vagabonds upon the Justices Warrant directed to them, or to appear at their Meeting to give up their account what Rogues, &c. they have punished, or sent to the House of Correction, or upon neglect to send such to the House of Correction as by order of Warrant are committed, the Justices at their Discretion may fine those so transgressing in a Summ not exceeding 40 s. *7 Jacobi* (1) Chap. 4.

If any one not being an Officer shall apprehend a Rogue, or Vagabond, and carry him before a Justice of the Peace, the Justice has power to reward the said person, by granting to him a Warrant under his Hand and Seal to the Constable or Tythingman of the place through which he passed unapprehended, ordering thereby the said Officer to pay 2 s. for every Rogue so apprehended, and upon refusal of payment the Justice may proceed against the Officer, pursuant to the Statute *1 Jacobi* (1) Chap. 7. and constrain him to pay his Forfeiture limited by the same Statute, and out of it to allow the said two Shillings with charges for loss of time as to him shall seem meet, *1 Jacobi* (1) Chap. 7. *14 Caroli 2. Chap. 12.* And considering Constables, Tythingmen, &c.

we at much charge many times in rehearing and carrying with Parties such as come to their Hands; The Churchwardens, Overseers of the Poor, and other Inhabitants may make a Rate to Tax the Inhabitants of the Parish who are lyably chargeable, by the Statute of the 43 of *Elizabeth*, to be confirmed under the Hands and Seals of two Justices of the Peace, and upon refusal of any to pay, the Constable may by Warrant levy it by Distress and Sale of Goods, returning the Overplus to the Owner if any such there be, 4 *Can. 2. Chap. 12.*

As for Rogues or Vagrants of both Sexes they wander several Circumstances or Denominations; and that an Officer may know who are such, and who not, viz. All Schollars and Seafaring Men that Beg; all wandering persons that use unlawful Games, subtil Crafts or Plays, and such as pretend to have Skill in Physiognomy, Figure-casters, or Fortune-tellers; all Proctors, Patent-gatherers, unless such as are impowered to do it by Letters patents under the great Seal upon the account of Losses by Fire; all Collectors for Goals, Prisons, or Hospitals, wandering abroad on that Occasion, without sufficient Warrant to authorize them; All Fencers and Bearwards, Common players of Interludes, Minstrels, Fiddlers, if so they be found wandering abroad.

All Labourers that wander abroad without the limits of their respective parishes, and refuse to work for such Wages as shall be reasonably taxed, having no other visible way to maintain themselves, all such as go with general Passports not directed from parish to parish.

All Juglers and such as use Tricks by flight of Hand, Artists, Tinkers, Pedlers, and Petty-Chapmen; also Glass-men wandering abroad, unknown and without a sufficient Testimonial,

all those that counterfeit themselves *Esquiers*, not Felons upon the Statute made in that case, all persons delivered out of Goal, that wander begging for Fees or otherways begging; all such as pass and repass to and from the Bars for the recovery of their Health, not pursuing their Licence; all Soldiers and Mariners, that beg, and counterfeit a Certificate of their Command; that is to say, either Male or Female, being above seven Years, and so transgressing as aforesaid, and those if they do not beg, yet if they wander and loiter about without any Passport or sufficient Testimonial, are accounted Rogues and Vagabonds; those that beg in their own Parishes, or in the High ways without the Appointment or Licence of the Overseers, are liable to be sent to the House of Correction.

And to authorise the Constable, Tything-man, and other Officers, to apprehend and order those as aforesaid, See 39 *Eliz.* Chap. 4. and 17. 41. *Eliz.* Chap. 3. 21 *Jacob.* (1) Chap. 28. 7 *Jacob.* (1) Chap. 4. 5 *Eliz.* Chap. 4. *Dutton* Chap. 47. Folio 123, 124, 134.

C H A P. LVI.

The Constables Office in disposing of the Wives and Children, of Rogues, Vagabonds, or Sturdy Beggars.

THE Wife of such Sturdy Rogue or Beggar, the Children being under seven Years of Age, must be placed with the Husband; and if he be dead, then the Children to be placed with the Wife in the Parish where she was born or last dwelt, and the Vagrant Children

who exceeding Seven Years of Age, must be sent to the place of their Birth; and if with Children under Seven Years of Age, the Vagrant Parents be placed at the place of the Birth of the said Children, or to the place where they last dwelt; if afterwards the Parents or either of them happen to die or run away leaving the said Children, yet they once seized must still remain in that Settlement, and ought not to be sent to the place of their Birth, tho' they have attained to the Age of 7 Years or upwards, according to the *30 Eliz. Chap. 4. Stat. Judges Sect. 45. Dutton Just. P. Chap. 47. Folio 235.*

The Vagrant Wife must be sent to her Husband, tho' he be no other than a Servant in any Parish or Town, and a Rogue or Vagrant not able to assign any place of Birth, if he have a Wife and Children under Seven Years old, they must be sent with the said Vagrant Rogue to the Parish or Town through which they by Sufferance last past unpunished, and the Children relieved with the Work of their Parents, though they be committed to the House of Correction, if it be possible they thereby can relieve them.

CHAP. LVIII.

The Duty and Office of a Constable, &c. relating to Alehouses, Inns, &c.

HE that without a License shall presume to keep an Alehouse, selling Ale or Beer, forfeits 20 s. to be levied by Distress and Sale of Goods, and converted to the use of the Poor of the Parish, and this to be done by the Constable and Churchwardens by Warrant, from

A Justice of the Peace of the same County, and upon Distress and Sale, the Overplus shall be returned to the Owner of the Goods if any such remain, and a Constable, &c. refusing or neglecting to execute any such Warrant to him directed, forfeits for such his contempt 20*s.* upon the seizure of Goods to levy the Distress upon such Alehouse keeper; the Constable being empowered by the Warrant aforesaid, may openly whip or cause the Offender to be whipped in the presence of the Goods upon Distress are to be sold in three Days: the Officers to be named in the Justice of the Peace who grants the Warrant, and the Justice upon Default of the Constable in executing his Office relating to the Premises may commit him to Goal till he causes the Offender to be whipped, or pay the Forty Shillings to the use of the poor, 3*Car.* 2. *Chap.* 3. *Dist.* 7*th*. *Chap.* 7. *Folio* 31, 32.

If a Warrant be directed from a Justice of the Peace to a Constable and Churchwarden, against an Inn-keeper, Alehouse-keeper, or Victualler, for suffering excessive drinking, or drinking in his House, as any Townsman or others to be drinking or being Drunk, and he neglects to do his Duty, he forfeits 10*s.* to be levied by Distress and Sale of Goods, to the use of the poor of the parish: Any person for excessive tippling is to pay 3*s.* 4*d.* or to sit in the Stocks 4 Hours; for being drunk 5*s.* or to sit in the Stocks 6 Hours if the Money be not paid, or there be no Goods belonging to the Offender whereon Distress is to be made, and the Inn-keeper, Alehouse-keeper or Victualler for suffering such Offences in his House, upon due proof forfeits 10*s.* and the Distress made must be sold in 6 Days, if the Money of the Distress be not paid.

the mean while payed; and if such Alehouse-keeper, Victualler, &c. refuses to sell a full Ale-Quart of the best Ale or Beer for one penny, or two Quarts of small Beer for a penny, or selling less than such Measure, the party so offending forfeits 4s. for every Offence, to be levied as aforesaid: And if in these particulars no Distress be found, or if the Officer neglects within 20-Days to certify the Default to the Justice, the Officer forfeits 4s. to be levied by Distress and Sale of Goods to the use of the poor, by Warrant to be directed to any indifferent person under the Hand and Seal of one, or two Justices of the Peace; and for Default of such Distress, the Justice may lawfully send the Offenders to prison, there to remain till the Forfeitures are paid, pursuant to the Statute, 1 *Parl. Chap. 9. 1 Car. 1. Chap. 4.* and some other Statutes relating to these Forfeitures and Penalties in Particulars and Generals; but Offences of this Nature are to be enquired into, within 6 Months after they are committed, and the Constable and other Parish Officers may be charged upon Oath to make a due presentment of them.

As for Ale-measure, here it is meant *Winchester Measure*, the Statute not being repealed, by reason of Expence and Dearness of Hops and Malt, so that it was in former times, the price of Drink is raised by the Brewers, that a *Winchester Quart* of strong Beer or Ale stands the Victualler more than a penny, yet let them beware of raising it to an extorting price, lest this Statute may be made use of to keep their Conscience within Bounds of Moderation.

If any Alehouse-keeper, refuse to lodge a wandering Person or Traveller, he or she offering Money for the Victuals and Drink, &c. in present pay, the Constable upon such Refusal may cause such

Alehouse-keeper, or Inn-keeper to be indicted at the Sessions or Assizes, where he may be Fined or Imprisoned, or the Party so indicted may bring his Action on the case; but then ready Money must have been offered before hand, if required, *20. Hen. 6. Rep. Folio 27. A. 10. Hen. 7. B. Daltre 3. P. Chap. 7. Folio 28.* They are liable to Penalties also for keeping any gaming in their Houses or Backsides; and indeed the Law is very strict in these Cases, to prevent Mischief and Inconveniency.

CHAP. LVII.

The Office of a Constable, &c. relating to Weights and Measures in Cities, Towns Corporate, &c.

IN the Market Towns, Cities, and Boroughs, there ought to be common sealed Weights and Measures, at which the Inhabitants may be freely allowed to weigh, and all Foreigners must pay for every Draught under 40 *l.* one Partman, and for a Draught between 40. and 100. a Halfpenny, and for a Draught between 100. and 1000. a Penny, which Money is to go towards the maintaining the Weights and the Person that attends the Service; or the Officers that attend the Service may have his Steward at the Discretion of the Inhabitants, *8 Hen. 6. Chap. 5.*

And if in a City such common Weights and Measures are wanting, It forfeits to the King 10 *l.* every Borough 5 *l.* and every Town where publick Markets is held 40 *s.* and the Chief Officers of such places are upon the Request of the Inhabitants, &c. to them made, to Seal and Mark

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Mark such Weights and Measures for any of the King's Subjects, taking for Sealing and Marking, as the Statute in that case directs, and none ought to Weigh or Measure with any other than what are Sealed and Marked, 8 Hen. 6. Chap. 9. 11 Hen. 7. Chap. 4.

And for the more regular and due observing of this, that no Frauds in this kind may be, the Mayors and Chief Officers in Cities, Burroughs, &c. once every Year at the least, are to view all Measures and Weights within their Jurisdiction, and to buy or break such as are not Sealed, or less than Measure or Weight, according to the King's Standard; also to Amerce the Offendor, viz. For the first Offence, 6 s. 8 d. for the second Offence, 12 s. 4 d. and for the third Offence, 20 s. and over and above the Offendor may be Adjudged to be set in the Pillory, 11 Hen. 7. Chap. 4.

CHAP. LIX.

The Office and Duty of a Constable in setting and ordering the Watches, Forcible Entries, &c.

FOR the better Security, and quiet Repose of the Inhabitants in every Town, Village, Parish, and Tything, a Watch every Night from Ascension-day till Michaelmas ought to be kept from Sun-set, to Sun-rising, which the Constables and other Officers there appointed, must cause to be set by two, four, or more able Men, according to the largeness of the Place, 13 Edw. 1 Chap. 4. Foulcon Tre. Watch. 1. Dalr. 60. Polio 140.

The watches thus Lawfully set by Authority, have Power to Examine such Persons as pass by them in the Night, being Strangers or others, and finding

finding a reasonable ground for Cause of Suspicion, they may secure them till the Morning; and such as refuse to obey, they may levy the 4th Cry in pursuit of them: And where they resist, if the Watchmen beat them it is justifiable, and to secure them, they may put them into the Stocks, or Cage till the Morning: and then if they give a good account of themselves, or that no farther Suspicion appear, but that they may be honest people, they may let them go; but if otherwise, then they are to deliver them to the Constable, who is to convey them before a Justice to be examined, who may commit them, bind them over, or utterly discharge them according as he finds Cause.

The Watch in this Case is to Apprehend such as Ride, or go Armed, Scouts, Eve-droppers, Noctivagants, Night-walkers, and all sorts of Rogues and Vagabonds, &c. 1. *Dalt. Chap. 68. Felm 140. 5 Hen. 7. c. 5. 5 Edw. 3. 14.*

The Watch so set by Authority must be Men Healthy, and of able Bodies, and do their Duty sufficiently Armed; and no person not being an Inhabitant within the Town or Parish where the Watch is kept, can be compelled to Watch.

The Inhabitants are to take their Watching in turns as it comes to them by the Number of Houses, as the Custom of the place has been, and may not be compelled out of order by the Constable to do it.

If any Inhabitant be lawfully Warned in his Turn by the Constable to Watch, and refuses it, he may Present him at the next Sessions or Assize, or to make his Complaint to a Justice of Peace, who has Power to bind him over to his good Behaviour, and so continue him to the next Assize, or Sessions to answer the Contempt; and this is the surest way, though *Dalt.* holds the

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Constable, *Ex Officio* may set him in the Stocks for such Contempt.

If a Constable, or any private person do make a Refusal to attend on a Justice of the Peace, being so Requested to do, in order to remove a Fence, or convey any party to the Goal for such a Neglect of his Duty, he may be Imprisoned, and over and above Fined to the King, 13 *Rich. 2, Chap. 2. Dist. Just. P. Chap. 21. Fals. 57.*

CHAP. LX.

The Office of a Constable relating to Hedge-breakers, Destroyers of Underwoods, &c.

THE Constables, Headboroughs, Tything-men, &c. are Impowered to Apprehend, or cause to be Apprehended any such persons they suspect to have carried away any Burthen, or Bundles of Poles, Underwood, young Trees, or the Bark of any Trees, Poles, Rails, Gates, Posts, Hedge-wood, Broom, Furzes, or any Bundles of Wood, &c. And by Warrant under the Hand and Seal of one Justice, may enter into the House, or any place belonging to the House of such Offender, or person suspected, and where they shall find any such Wood, &c. To Apprehend the party suspected for cutting the said Wood, and those in whose Custody it is found, and to carry them before a Justice of Peace, in order to be examined; and if no sufficient Account can be given how they Lawfully came by it, or shall not within a Time Limited prove who he bought it of, then shall he stand Convicted of cutting and spoiling Wood within the Statute of 43 *Elix.* and for the first Offence shall

shall give such Satisfaction to the Owner as the Justice shall appoint, and over and above pay to the Poor where the Offence was committed, such Summ as the Justice shall Amerce him in, not exceeding ten Shillings, and for Non-payment, the Justice has Power to Commit the Offender to the House of Correction for a limited Time, as he shall think fit, not exceeding one Month, or at his Discretion to be Whipped by the Constable, or other Officer.

For the second Offence the Offender is to be sent for one Month to the House of Correction, and there to be held to hard Labour; and upon a third Offence to be Punished as an incorrigible Rogue, *15 Caroli 2. Chap. 2.*

If any Person procure for Money any Barren Sticks, Wood, or Under-wood, &c. of such Persons as may reasonably be suspected to have gotten them Unlawfully, and a Complaint be made to a Justice of the Peace, and it appear upon Examination that the Wood so bought was Unlawfully come by, the Justice may compel the Party who bought it, to pay treble the value to the proper Owner; and for want of such Payment upon Warrant granted, the Constable may Levy it by Distress and Sale of Goods, rendering the over plus to the Owner, if any there be, and in defect of wherewith to make Distress, to Commit the Party to the Goal at his proper Charge, to continue there for the space of a Month, not liable to Bail, *15 Caroli 2. Chap. 2.*

Note, that by Virtue of this Statute, no Person is to be punished, that for the same Offence has been punished by a former Law, and every Offender to be brought within the force of this Statute, must be Prosecuted within 6 Months after the Offence is committed.

CHAP. LXL

What is required of a Constable in the Performance of his Office, in case of Landlord's Distraint for Rent, &c.

According to the late Act made the 1st Day of June, in the second Year of W. and M. 1630. If a Distress be made on the Premises, and the Tenant or Owner of the Goods or Chattels so distrained, do not within five Days after the Distress made, and notice thereof given with the cause of such taking, left at the chief Mansion-house, or most noted Place on the Premises charged with the Rent, for which the Distress is made, Replevy, giving sufficient Sureties to the Sheriff according to Law; That then the five Days expired, the Person so distraining, has Power with the Sheriff, Under-Sheriff of the County, or with the Constable of the Hundred, Parish, or Place in which such Distress shall be taken; who by this Statute are required to be Aiding and Assisting, to cause the Goods and Chattels so taken in Distress, to be Appraised by two Sworn Appraisers, whom the Sheriff, Under-Sheriff, or Constable are by this Act Impowered to Swear, to Appraise the same truly according to the best of their Understandings. And such Appraisement made, Seisors may lawfully Sell and Dispose of the Goods and Chattels for the best Price that may be gotten for the same, towards Satisfaction of the said Rent for which the Distress is made, and of the Charges of such Distress, Appraisement and Sale, leaving the over-plus, if any be in the Hands of the Sheriff, or Under-Sheriff, or Constable, for the Use of the Owner. And the Goods being left on the Premises till Sale can be

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be made, as aforesaid, upon any Pound, Breach of Corn, &c. or Rescues of Goods or Chattels Distrained for Rent, the person or persons thereby Aggrieved, shall upon a special Action of the Case for a Wrong thereby sustained, recover his or their Treble Damages and Costs of Suit against the Offendor, or Offenders, of such Pound, Breach or Rescues, any, or either of them, or against the Owner of the Goods, in case any, after the Distress, have been found to come to his Use or Possession by such means.

But note, that in case any such Distress, or Sale as aforesaid, shall be made by Virtue or Colour of this Act for Rent, pretended to be Arrear, and due, when in truth there is no Rent in Arrear, or due to the person or persons Distraining, or to him, or them in whose Name or Names, or Right, such Distress shall be taken, as aforesaid, his Executors and Administrators, shall and may by Action of Trespass upon the Case to be brought against the person or persons so Distraining, or either of them, his, or their Executors, or Administrators recover double the Value of the Goods and Chattels so Distrained and Sold; as likewise full Costs of Suit.

Note, that Hay, Corn, or any Grain are not to be hastily, or wastfully removed from the Premises before due Appraisement and Sale, to the damage of the Owner, in scattering or wasting it, &c.

CASE A. P. LXII.

That relates to the Office of a Constable in providing Carriages for the King, &c.

ACCORDING to the Statute of 1 Jacobi 2. In this Case the Clerk or chief Officer of His Majesty's Carriages, shall 3 Days before His Majesty's Arrival, give notice to the Neighbouring Justices, two, or more of them by Warrant from the Green-cloth, to provide such a number of able Carriages, as shall be requisite for the Service, to be drawn by 4 able Horses, or six Oxen, or four Oxen and two Horses, to meet and be ready at the Time appointed to load without delay; and for so Loading they are to receive in Hand, after the rate of Sixpence a Mile, and not to be compelled to go more than 4 Days Journey from their Habitations, and the Carriages Summoned to give their Attendance on Default, being Convicted of Neglect or Refusal, by the Oath of the Constable or other Officer, or two other credible Witnesses before the said Justices of Peace of the County, or Mayor or other Chief Officers of the City or Corporation where he or they so neglecting inhabit, and who have a Power to tender the said Oath, the party so neglecting or refusing shall forfeit the Summ of Forty Shilling to the King's Use, forthwith to be levied by Distress and Sale of Goods, the Over plus if any be, to be returned to the Owner, and this to be done by Warrant from the said Justice of Peace, Mayor or other Officer, and in Case any Justice, Constable or any other Officer shall take any Gift or Reward to excuse any person from this Service, or shall injuriously charge or grieve any person through Hatred, Envy, or Evil Will, who

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who ought not to make such Carriage, or Impress more Carriages than shall be directed by Warrant of the Green Cloth, upon Proof and Conviction thereof the Party so offending shall forfeit the Sum of Ten Pound to the Party grieved, or to any other who shall sue for the same, to be recovered by Action of Debt in any of the King's Courts of Record, wherein no Essoign, Protection or Wager of Law shall be allowed; and if any Person or Persons shall impress any Horses, Oxen, Cart, Wain or Carriages for the King's Service, other than such as are lawfully empowered, he or they so offending, upon due Proof and Conviction shall incur and suffer the Punishments contained in the Act of 12 Car. 2.

All High Constables, Mayors, Bayliffs, and other Officers who warn the said Carriages, or whose Duty it is so to do, must make a Return in Writing, to the Clerk or other Officer of the Carriages, of the Names and Places of Abode of every such Person who is so warned to bring in his Cart or Carriage, so that the Defaulters may be known, and the said Officers appointed by the Act to warn them may be Discharged and Indemnified, and the Defaulters punished as aforesaid.

C H A P. LXIII.

The Office and Duty of a Constable relating to the King's Game, Fishery, Excise, and Custom,

UPON a Warrant directed to a Constable, Headborough, &c. under the Hands and Seals of two or more Justices of the Peace, the Constable, &c. may search suspected Houses for Setting-
Dogs.

Dogs, Nets, and other Tackle for taking Pheasants, Partridges, and other the King's Game, and destroy them to found; but in Case they have Free Warren, or are Lords of the Manors, or are Freeholders of Forty Pounds per Annum, or more of Estate of Inheritance, or Eighty Pounds per Annum for Term of Life, or be worth in Goods 400 l. they are exempted from the Seizure.

As to the Constables Office relating to Fishery, it may by Warrant under the Hand and Seal of a Justice of Peace, apprehend such as destroy the spawn or Fry of Fish along the Sea-shore, or in any Creek or Haven, or within five Miles of the Mouth of either of them, or such as fish with unlawful Nets to destroy the young Fry, the Meshes of their Nets not being 3 inches and a half between Knot and Knot, for which Default they are to pay 10 Shillings, to be levied by Distress and Sale of Goods, the Overplus to be returned to the Owner, if any remain; 3 Jacobi 1. Chap. 12. *Wingate's Abridg.* Title Fish, Fishers, Fishing.

And for the Encouragement of the English Fishery, if any Herrings, Ling, Cod or Pilchards Fresh or Salt, Dried or Bloated, or any Eels or Congers or Salmon be brought in and offered to Sale to Foreigners, it may be lawful for the Constable of the Borough, &c. or any other Person to seize them, the one half to the poor of the Parish, and the other half to the use of him that seizes; and if any one shall refuse to assist a Constable or other Officer hereto impowered on this occasion, being commanded so to assist him in the King's Name, he upon complaint and Proof of such contempt, lies liable to be prisoned and fined at the Discretion of the Justice before whom he shall be convicted, 13 Caroli 2. Chap. 2.

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As to the Duty of a Constable relating to the Excise, note that he is to be sitting and assisting when required, to the Gaugers, and Under-Officers employed therein, and to go with them in the Night time to such Houses where any Liquors are to be gauged. They are moreover to levy Forfeitures where a Conviction is made before the Justice or Commissioners, of any Concealment, Fraud, or the like thereupon, by Warrant for that purpose directed to seize the Goods and Sale of the Offenders Goods, and to render the Overplus if any be, to the Owner, and for waste of their Distress to carry the Party so offending upon commitment to Goal, there to remain till there be Satisfaction made, and upon Warrant directed to a Constable from the Commissioners, he is to summon all Alehouse-keepers within his Division, at such Days and Places as shall be appointed in the said Warrant from time to time, &c.

As to what concerns the Constables Office relating to Customs by the Act made the 14 Carol 2. such as have Authority by Writ of Assistance under the Seal of the Court of Exchequer, may take to their Assistance the Constable, Headborough or other Peace Officer, inhabiting near the place, and on the Day may enter the House, Shop, Cellar, Warehouse, Rooms, or other place, and in case of Refusal or Resistance break open Doors, Packs, Chests, Trunks or such places, and take away such uncustomed and prohibited Goods as they shall there find, and convey them to the King's Warehouse in such Port as is next to the place where the Merchandise shall be seized, see further, 11 Car. 2. Chap. 11. And if the Officers of the Customs or any sitting, being assisting or aiding to them, shall be sued, indicted, prosecuted or

unlessed; such Person or Persons, his or their Heirs, Executors and Administrators may plead the general Issue, and give any of the Acts relating to the Customs, in Evidence in any of the King's Courts of Justice, 14 Car. 2. chap. 11.

C H A P. LVIII.

The Office of a Constable relating to Clothiers and Irish Castles, &c.

IT is the Headborough or Constable's Duty, upon Request, to be aiding and assisting to the Wardens and Assistants, for regulating the Worsted Trade, and other Stuffs made at *Norwich* in the County of *Norfolk*, and usually called *Norwich Stuffs*, 14 Car. 2. chap. 3.

And the Constables in the West Riding of *Yorkshire*, by Warrant directed from the Justices of the Peace, the Masters and Wardens of the Corporation, or any 12 of them, are impowred to levy such Fines, Penalties and Forfeitures, as by Virtue of the Statute mentioned, shall become due from any Clothier, and this to be done by Distress and Sale of the Offender's Goods, &c. the overplus to be restored to the Owner (if any remain) upon demand, 14 Car. 2. chap. 5.

The Justices of Peace and High Constable have power to search any House, Ware-house or other place, for Tenters, Ring-ropes, Head-wrenches, or such other things used in the stretching Cloth, and such as they find, they may deface, and the second time they are used, they may take them away and sell them, the Money to be to the use of the Poor, to be distributed as they shall see fit, 33 Eliz. chap. 20.

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All the Clothiers shall pay their Spinners and other Workfolke in ready Money, and not in Ware, and their Wool to be delivered to them in due weight, under the Penalty of 5*l.* For default for every Default; and those Workfolke to do their Work faithfully, under forfeiting double Damages to the Party grieved, 4 Edw. 3. Stat. 1. *Pitt. 7. c. 103.* And the Master or Head Officers in a Corporation where no Master is, and out of a Corporation the Justice of Peace, High Constable, and Stewards of Towns, shall hear and determine such Matters as arise upon Complaints as Non-payment of Wages or Damages, as before mentioned; and upon due Examination, if they find cause, they commit the persons offending to Goal, till such time Satisfaction be made to the party aggrieved, *Stat. 10. c. 10.*

And Cattle are not to be brought into England under the Penalty of their being seized by the Constable, Head officer, or any other person or persons; and to prevent fraudulent Seizures and Compositions, the party or parties so seizing, shall within six days after, cause the said Cattle, Sheep or Swine to be Killed, and the Hide and Tallow to be to the Seizer, and the rest distributed by the Church-wardens and Overseers among the poor of the Parish, where are large Cattle, Sheep or Swine shall be transported or found; and such Seizure the Overseer of the poor or Church-warden so neglecting or failing in his Duty, shall for every one of the large Cattle forfeit 4*l.*, and 1*l.* for any of the smaller Cattle, as Sheep, Swine, &c. which should have been Killed and distributed, as aforesaid: To be levied by Distress, and Sale of Goods, one half to the Poor of the said Parish, and the other to him that does inform; and this to be done by Warrant, and under Hand and Seal

any of any one Justice of the Peace; and for any of such Default the Offender to be Imprisoned without Bail for the space of 2 Months.

Wool, or Lamb Imported is subject to the like Legions and Penalties, as Beef, Pork and Bacon; and also Butter and Cheese Imported from Ireland, and English Cattel purposely intermixed with Irish, to colour a Defraud, shall be reputed Irish, and by the same in all Respects, as a *Caroli 2. Chap. 11.* And indeed all Cattel Imported into England from any Country beyond the Seas, or into the Dominion of Wales, or Town of Berwick upon Tyne, or Scizable, unless from *Man Island*, and they to be landed in the Port of *Chester*, or Members thereof, and they not to exceed 600 in one Year, and to be of no other Breed but of that Island.

Note, the Cattel seized as aforesaid, are to be kept in some publick place by the space of 40 Days, and if in that space the Owner, or Owners, or a Justice for him of them, shall before a Justice of the Peace of the same County where the Seizure is made, make oath by the Oath of two Credible Witnesses, that the said Cattel were brought from no place beyond the Seas, the Title of *Man* excepted; then upon Warrant from the Justice they are to be delivered to the Owner, as the 18 of *Caroli 2.* And is revived with some other on this Subject, and made perpetual by the great *Caroli 2.*

CHAP. LXIV

Of the Relief of poor maimed Soldiers, Mariners, Prisoners, &c. How to be gathered and Ordered, &c.

Where Money is Rated for Relief of the Poor maimed Soldiers, Mariners, Prisoners, &c. The Constable within his Constabulary, upon refusal or neglect of Payment, may, as also the

Church-wardens Levy it by Distress and Sale of Goods, rendering the overplus to the Owner, if any there be, 43 *Eliz. c. 3. Wingate's Stat. Tit. Captain and Soldiers. &c.*

All Money in this manner, and to the use aforesaid Collected, must be quarterly delivered to the high Constable ten Days before the Quarter-Sessions, or in Default, the Constables, Church-wardens, their Executors or Administrators are to pay the same by way of Forfeiture, and the high Constable receiving, is to pay it to the Treasurers appointed by the Justices to receive it, or upon Default he forfeits 40 s. the Forfeitures to be Levied and Employed by the Treasurer for encreasing the Stock for the aforesaid Uses, 43 *Eliz. Chap. 3. &c.*

The high Constables are under the Penalty of five Pounds, to pay such Money Quarterly at every Sessions, to such Treasurers or Collectors as is raised in the respective Parishes, and payed to them by the Constables and Church-wardens for the Relief of poor Prisoners, 44 *Eliz. Chap. 4. &c.* And they may make Distress, as in case of maimed Soldiers aforesaid, upon refusal or neglect of payment, for Money so Rated for the Relief of poor Prisoners in the Marshalsea or King's-bench; as likewise for the Relief of the Poor in Alms-Houses and Hospitals: and for want of Distress, the Party may by the Justices of the County, be Committed to Prison, there without Bill or Mainprize to abide till the Sum be paid. And the Constable or Church-warden neglecting to pay it in ten Days before the Quarter-Sessions as aforesaid, forfeits 10 s. each, and the high Constable 20 s. if he pay it not in at the Quarter-Sessions, as directed, which Forfeitures the Treasurer may Levy by Distress and Sale of Goods, and employ to the Increase of the Stock, 43 *Eliz. Stat. 2. Sec. 2. in fin.*

C H A P. LXV.

What Particular Things and Matters High Constables ought to return before the Justices in Sessions, and to be return'd to them by the Petty Constables in their Respective Jurisdictions.

1. They are required to return the Christian and Sir Names, Additional Names, and Qualities of all Popish Recusants, as well Lodgers or Householders, Residing or Dwelling in any of their Respective Parishes or Divisions.

2. The Names of such as shall prophaneely Curse and Swear, with the Number of their Oaths, immediately, or within Ten Days, informing the Justice of Peace of such Offence.

3. The Names of such Persons as shall Drink or Tipple in any Inns, Ale-houses, or Taverns at any time, especially on the Lord's-day; and such persons as they shall find Drunk, with the Names of those that entertain them.

4. Such persons Names as suffer any Unlawful Games to be used in their Houses, Gardens or Back-side, with the Names of such as haunt Gaming.

5. They are to return all such Ale-house-keepers or Victuallers as Sell Ale or Beer without License.

6. Such persons as are to Watch and Ward, who neglect or refuse to do their Duty therein.

7. The Names of such persons as divide their Houses into Tenements, and take in Lodgers or Inmates, that Annoy their Neighbours, or are likely to be a Charge to the Parish.

8. The high Constable is to return the Defaults of Petty Constables, Tything-men, &c. for neglecting to Apprehend and Punish Beggars, Bozwers, Vagabonds, or refusing to Pass them, &c.

9. They are to certify the Names of such persons

sons as feble to take Apprentice poor Parish Children according to the Statute.

10. All Matterless Men and Women living on their own Hands, such as are Idle, refusing to Labour, and can give no Satisfactory Account how they get their Living, and all suspicious Persons as Mothers of Bastards, Whores, Noctivagrants, Night walkers, or such as are likely to be Chargeable to the Parish wherein they Reside.

11. The Names of such as neglect, or wilfully omit to make due Rates and Collections for the Relief of the Poor in every Parish, or that cannot, or do not give a just account how the Poor and Stock of the poor is employed.

12. They ought to return all defects in the Highways and Bridges; also Pavements in their Districts where there are no Commissioners, or Defects are neglected by them, with the Names of such as ought to repair them, and have neglected or refused so to do.

13. They ought to Present all such Scavengers as are found negligent in Cleansing the Streets, or in other parts of their Duty; and all common Annoyances in the Streets, Lanes or Alleys.

14. The Name or Names of every such Person or Persons who keep Swine, to the common Annoyance of their Neighbours, or any other in and about the Liberty and Precincts, where Hogs ought not to be kept; more particularly referring to the Cities of London and Westminster and their Liberties.

15. They ought to Present Bakers putting Bread not due Weight to Sale, with a particular Account thereof. Also Brewers Selling Beer or Ale to Unlicensed Ale-houses, or Victualling-houses; likewise all Regrators, Foretasters of Markets, Ingrossers of any Corn, or Grain, Butter or Cheese, Bacon, or any kind of dead Flesh, or Provisions whatsoever.

And

And in order to make out these Matters against the Delinquents, they are to return the Names of such persons as can testify or prove the Offences before the Justices in their Sessions or Meetings; and thereupon they are to be Summoned in order to be Examined, that it may be known how far they can inform them in the Particulars alledged; and such as gave not before their own Doors, or such places as ought to be saved, are liable to be returned by the Petty Constable to the High Constable in their several Precincts, or Districts; and by them presented before the Justices in their Sessions, &c.

C H A P. LXVI.

The Office of a Constable, &c. Relating to Stoned Horses.

IN this Case there are several Laws provided to prevent Damage, which Owners may sustain by the hurt or unseasonable covering of their Mares, in which Case it is provided by the Statute 32 Hen. 8. Chap. 12, That none shall put to Feed upon any Forreſt or Common, except a Common or Forreſt where Mares are not usually put, or kept, any Stoned Horse exceeding two Years Old, and not fifteen Hands high from the lower part of the Hoof, to the upper part of the Withers; and if any Stoned Horse of a lower Sature be put to Feed in any such Common or Forreſt, unless it be in the Penny grounds of the Isle of Ely, and in other parts of Cambridgeſhire also, Northamptonſhire, Huntingdonſhire, Lincoln, Northampton, Suffolk and Norfolk, where they are required to be but thirteen Hands high, any person may Seize them to his own Use by the Assistance of the Con-

stable

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stable, Keeper of the Ground, Headborough, Bailiff, or other such Officer, conveying the Horse to the next Pound, there to be measured by the Officer in the presence of three sufficient Witnesses; and being found lower than the Statute directs, there to be disposed on, 8 *Edw. Chap. 2. Wingate's Abridgement of the Statutes, Title Horses*; and so according to the Statute of *Hen. 8.* before mentioned; and such as are required so to do, refusing to Measure, or be present at Measuring, forfeit 40 s. each for every Refusal or Default, one half to the King, and the other half to the Prosecutor; but however the Horse must be wisely put in the Common or Forrest by the Owner or his Order, for if he escape thither he shall not be questioned in this Kind, unless he remain there above 4 Days after Notice given to the Owner at his House, or in his Parish Church, 32 *Hen. 8. Chap.*

Note that all Forrests and Commons require to be driven every Year at Michaelmas or within 15 Days after, by the Keepers of the Ground, Constables or other Officers thereto appropriated under the Penalty of 40 s. upon failing so to do. And they have power likewise to drive them at any other time of the Year as they shall see it convenient in their Discretion; the like is provided for the Owner of the Ground. But by the 21 *Jacob. (1) Chap. 28.* this Statute of the 32 *Hen. 8.* is not to extend to the County of Cornwall, that being a Royal Duchy.

CHAP. LXVII.

The Constables Office and Duty relating to such Persons as Profanely Swear and Curse.

BY a late Statute made in the 5 and 7 Year of the Reign of William the Third, *Chap. 11.*

it is enacted for the restraining that Dangerous and Unprofitable Sin of Swearing and Cursing, that such as in the Presence or Hearing of a Justice of the Peace of the same County wherein the Offence is committed, or Head Officer or Justice of Peace of the City, do Swear or Curse, or are thereof convicted by Witness or Confession of the party before any Magistrate, the Offender if a Common Soldier, Labourer, or Servant shall pay for every Oath, &c. 12. for the use of the poor of the Parish wherein the Offence is committed, and every other person is to pay 2 s. for the like Offence; for the second double, for the third treble, to be levied by Distress, by Warrant from one Justice of the Peace; and where no Distress is found, the Offender if above Sixteen Years of Age is to be set in the Stocks by the Space of one Hour for one Offence, and two Hours for more than two Offences; but if under Age, to be whipt by the Parents or Master in the Presence of the Constable. All Justices of Peace, Constables, &c. who neglect to put this Act in Execution, being knowing of the Offence, to forfeit 5 Pounds, and none are to be prosecuted upon this Act beyond the Expiration of Ten Days; therefore Information must be given within the said Ten Days after the Offence committed. And for the better deterring Offenders to commit Offences of this Kind, it is ordained to mind them of the Danger and Shame they are like to incur thereby, that this Act be publicly read in Churches next Sunday after every Quarter Day, immediately after Morning Prayer under Penalty of 20 s. for each Omission, and Justices, &c. are to keep a Register of all such Convictions before them, and to certify the same at the Quarter Sessions, to be there Recorded, where any one may search for the same, and see it without paying any manner of Fees.

C H A P. LXVIII.

The Constables Office and Duty further relating to Vagabonds and Beggars, and Collecting Monies for Building and Repairing Gaols.

BY an Act of the 11 and 12 of W. 3. it is Enacted, that after the 24 of June 1. 00. That if any Vagabond, Beggar or any person whatsoever, shall be brought to any Constable, Headborough or Tythingman or other Officer, with a Pass, Testimonial, Letter of Request, or other writing whatever, pretending thereby either to be Relieved or Conveyed: The said person or persons shall by such Constable or other Officer, or by some other sufficient person or persons whom he shall order or depute, be carryed before some one Justice of the Peace of the County, which Justice is carefully and diligently to Examine him or them, and if he finds they ought by Law to be punished, he is to send them to the House of Correction, and take such further Course as in that Case the Law directs: But if no such Cause appear, then he or they are to be immediately conveyed out of the County to such Town of the next County, unto or through which such person or persons are to pass or be conveyed, as the said Justice shall think most proper: and every Constable or other Officer is to convey them to the House of Correction, or to such Town as aforesaid, without delay: and further, the Justice is by this Act obliged to give the Constable or other Officer a Certificate without Fee, of the Number of such persons as he shall so order to be punished or conveyed, as also the manner how, when, and from whence such persons are to be conveyed: And further, the Justice ought to Tax the Charge on

the back of the Certificate, which the Constable, or delivering to the High Constable of that Division, he is to pay him his Charges out of the Monies of the Goal and *Marshalsea* Mony, and take a Receipt for the same, which Receipt shall be Accepted by the Chief Treasurer of the County, and allowed in his Accounts as so much Mony, and if the Goal and *Marshalsea* Mony fail to be sufficient, then the Justices in their Quarter Sessions may raise a Tax in their Counties, Ridings and Divisions, in such manner as they raise it for the County Goals and Bridges, the Money to be paid to the Chief Constable of each Division, so as they shall have a quarterly Payment in their hands before hand, and as often as the said Petty Constables or Deputies shall produce the said Certificate, they shall be paid their Charges according thereto, and the High Constable must Account for so much at the next Quarter Sessions, and the Petty Constable is not to Charge the Inhabitants or his Constabulary with any Sum or Sums of Mony, or any Provisions, to the Relief or Conveyance of such Rogues or Vagabonds.

And if any Constable or other Officer to whom it belongs, shall neglect to Apprehend such Vagabonds or Beggars, or be remiss and negligent in doing his Duty by this Act required, then for such Offence he shall pay 20 s. one fourth part to go to the Informer, and the other 3 parts to the poor of the Parish, and he may be Convicted before a Justice by the Oath of one Witness, and upon refusal to pay, Distress may be made by Warrant as in other Cases: But this Act is to continue but 4 Years, and from thence to the End of the next Session of Parliament.

By another Act of Parliament 11 and 12 J. 2. Intituled, *An Act to Enable Justices of the Peace to Build and Repair Goals in their respective Counties*

The

The Justices of the Peace at their General Quarter-Sessions are to direct their Warrants or Precepts to the High Constable, Petty Constable, Bailiff or other Officer or Officers as they shall think fit for the Collecting and Levying the Money in order thereto; and upon denial of any Assessed after 4 Days demand to pay the same, they are Impowered to make Distress and Sale of Goods, and after 4 Days keeping, if the Money be not paid, to sell the same, and deducting Charges, immediately to render the Overplus to the Owner, the Distress being first Appraised by two or more of the Inhabitants, and the Constable, &c. to pay the Monies so Collected to the Treasurer or Treasurers Appointed by the Justices to receive it; and for refusing to Account after four days demand, the Justices of the Peace, or the greater number of them are Impowered to Commit him or them to neglecting or refusing, to Prison, there to remain without Bail or Mainprize, till he or they shall have made a true Account.

CHAP. LXIX.

The Constables Office relating to such as make or purchase bad Malt for Sale; &c.

THE Constable's Office relating to Malt, is to see such Malt as comes to be sold within his Division, or there made for Sale, that it be well conditioned, and no evil Malt mixed with the good: And if upon View it prove bad, the Constable and Bailiff of the Liberty, with the Allowance of one Justice of the Peace may sell it for such price as can be got, or at such rate as the Justice shall set upon it, *2 Edw. 6. Chap. 10, 21 Jacob 1 (1) Chap. 28. 1 Carol 1 (1) Chap. 4.*

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The Office and Duty of a Churchwarden, Questman, Steward, &c. In all respects relating to what concerns them in the due and safe discharge of their respective Trusts.

C H A P. LXX.

Of the Office of a Churchwarden, &c. Its Antiquity and Dignity. How to be chosen. What they are to do in keeping the Lord's Day; and what relates to them as to Goods of the Church, and well ordering Matters, &c.

THE Office of a Churchwarden appears in Effect to be much Antienter than in name, tho' the latter is of considerable Antiquity, the Office itself being as Antient as the tolerating Christian Churches in the due Exercise of Religion, by the Civil Power, but often interrupted and laid aside by the Persecutions and Turns of Government; however the Office is exceeding Necessary and Beneficial to the Churches, and Inhabitants of the respective Parishes; for they are in the manner of a Corporation as they are taken at Common-law, properly termed Churchwardens at the Common-law, because by that Name they are enabled to take the Charters and moveable Goods, and to implead, or be impleaded, sue or be sued, relating to such Goods and Charters as belong, or are to the use and behoof of the Parish, of which they are such Officers, and the Preservation of the Goods of the Church are more immediately and particularly under their Care, as the Communion Plate, Books, and other Ornaments and Furniture, their Care being not to suffer any thing to be wasted or diminished, they find, at the time of their entering on their said Office, at what time they ought to be put in their Custody and Charge to take notice of.

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As for the Choice or Electing these Officers, it is to be annually in the *Easter*, unless the Custom in a Parish alter the time; and in the Book of the Constitution of Canons Ecclesiastical, in the first Year of the Reign of King *James the First*, The Churchwardens, Questmen, Sidesmen or Assistants in the respective Parishes, are to be chosen or elected by joynt Consent of the Minister and Parishioners, if so it may be; but upon disagreement, the Minister to choose one, and the Parishioners the other, and without such a joynt or several Election, no person ought to take upon him the Office of a Churchwarden, nor when chosen, to continue any longer than the space of one whole Year in the said Office, unless in the same manner again chosen. However, there are several Cases that have set aside this Canon, where the Custom in any Parish has been contrary to it, for in such Cases the Custom has been allowed and observed before the Canon; And the Church, the Churchwardens, &c. being chosen are to be diligent in observing that the Parishioners make due resort to the Parish Church on the Lord's Day, and upon Holy Days, and there to continue Devoutly and Reverently during the Time of Divine Service, and such as neglect without lawful Excuse or urgent Occasion for Absence, after admonition, if they further neglect, their Names must be presented by the Churchwardens to the Ordinary of the place, See Canon 89, 90. 5 *Edw. 6. Chap. 1.*

They are strictly to see the Lord's Day kept in, and out of the Church, and to visit Inns, Taverns and Ale-houses; and if in the time of Divine Service they find any persons Tipling there, they may carry them before a Justice of Peace, who may cause them to pay 2 s. 4 d. for Tipling, over and above the 12 d. due for being absent from the Church;

Church; and he that keeps the House, for suffering them to Tittle, forfeits 10 s. and these sums to go to the use of the poor of the Parish, *3 Jacobi Chap. 4.*

The Minister and Churchwardens are not to suffer any person to preach within the Church nor Chappel, not producing a License to authorize him to legally to preach, and such a one as shall to them appear sufficient, *Can. 50. 24.* No Sports are to be suffered in the Church, Chappel, Church, or Chappel Yard, on a Sunday or other Days, or any thing unreasonable or tending to the profaning those places, nor the Bells to be rung for Sport or Pastime, but to be rung only upon Suitable and Solemn Occasions.

The Churchwardens, as I hinted, being in the Nature of a Corporation, have power to take Gifts for the purchasing Furniture to the Church, or for other Advantages to the School of the Parish; but they may not take an Estate of Land by the name of Churchwardens only; for if there be a Feoffment made to the Churchwardens of the Parish, the Use is void in it self; for they are not in a Capacity to take such a Purchase, nor may they subscribe to have Lands to themselves or their Successors; for as to Lands they are no Corporation, but to Goods only.

If a Bell be broke, or any ways spoiled, so that it is not Tunable, the Churchwardens by the Agreement of the Parishioners, or the greater part of them, may cause it to be new cast, leaving it in the Founder's Hands till he is paid, and by that means the Churchwardens may bar their Successors of that Account.

If any indifferent person, or other in place, buy a Bell, set up a Pew, or any Ornament to the Church, it cannot be taken away by him or his Heirs, &c. Because it is a Dedication, and the Church-

Churchwardens may sue those that attempt it; but the Action must be commenced for Goods for the use of the Parish, and not in the Churchwardens own name; nor can any Churchwarden sell, impair, or release any of the Goods of the Church, without the free Consent of the Sidelmen or Vestry, under pain of being brought to Account for it, by the Succeeding Churchwardens, and forced to make sufficient Satisfaction.

If the Church windows or Walls be broke, the Trees cut down in the Churchyard, or the Grass eaten up there, this lies in the Parson's Care to redress, and not the Churchwarden, for he is Conservator of the Body of the Church and Churchyard, as the Churchwardens are of the Moveable Goods only.

C H A P. LXXI.

What relates to the Office of a Churchwarden, in repairing the Pews, about Seating persons in the Church, and keeping good order: What Rates they may make for the repair of the Church, and what not, with other things of the like Nature.

TH E Churchwardens have the Care of repairing the Pews in the Body of the Church, &c. and other seats; but it is held in most cases they have not the disposing of them in the Body of the Church, the Disposal belonging to the Ordinary of the place, to place and displace whom he pleases, tho' in this there are excepted or exempted Cases; for suppose a Man and his Ancestors, and all those whose Estates he hath in his possession in certain Messuages, have time out of Mind continued to repair an Isle or Pew, or sit there, this alters the Case, and the Ordinary cannot meddle nor displace; for if he do, a prohibition lies; for

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by prescription he hath and enjoys it for a reasonable Consideration: But if there be no care taken to repair such a Pew by the party claiming by prescription, and it run to ruin, the Ordinary may take it into his hands; yet he hath nothing to do in this Case in exempted Chappels belonging to Noble-men.

The Churchwardens beside the looking after the Books and other Necessaries and Ornaments of the Church to see them kept in good Order, are to provide Bread and Wine for the Sacrament, proportionable to the number of the Communicants, and a parish Rate may be made for supplying this and other Necessaries. The Churchwardens and Vestrymen are likewise to see that in every meeting of the Congregation, the Peace, and a due Decorum be kept. Also to put out of the Church such as are excommunicated.

In case of making a Rate for the defraying of Charges, it must be done by the Churchwardens, with the Consent and Assent of the major part of the Parishioners, House-keepers, of which they are to have convenient Notice before such time appointed, for the said Meeting, to fix and settle such Rates: Now if upon the setting upon these Rates, a Man dwell in one Parish, and have Land in another which he occupies there, he lies chargeable for his Lands so occupied in the Parish where his land lies, but if he Lease out the Land he hath in another Parish, receiving Rent, then is he not to be charged for his Lands there, because there is a Parishioner and Inhabitant liable to be charged elsewhere. Co. L. Report, Folio 52.

No person keeping a Stall in a Market, and not being an Inhabitant of the parish where that Market is kept, can be rated toward the Reparation of the Church; but if a Citizen build a House in an Out-parish, and partly live there, and partly

152. *As to Churches for Churchwardens.*

in the City, not having any Land to lease out or occupy in the Parish where his Country House stands, he is however as an Inhabitant liable to the Church Rate, and no prohibition lies in this Case in the Court Christian, because the Jurisdiction of the thing is not in their power, tho' he be rated more than they that have 40 or 100 Acres of Land in that parish.

If there be in a Parish a Chappel of Ease, and one part of the parish time out of Mind is wont to repair it, hear Service, and have a Custom to Bury in it, and aliother other Rites, except burying their Dead at the parish Church, they are however liable to be rated for repairing the Mother Church, *Mich. 12 Jacobi (1623) 120.*

Where only part of the Parishioners are rated, and for defect of payment sued in the Ecclesiastical Court, the matter must be pleaded in that Court, for in this Case a Prohibition will not lie; and if the Majority of the Parishioners agree to encrease the number of Bells or Ornaments of the Church, it is binding to the rest, and they are liable to the Rates that shall be made, tho' not consenting to it; and for any Ornaments for the Church, they ought to be rated only for their personal Estates, and not for Land, *etc.*

And among other things it is enacted relating to the City of London, that where any Church-yard or Church is fronting or adjoyning to any of the Streets, Lanes, or Passages mentioned in the said Act, the persons thereby appointed and authorized may for the paving the said Streets, *etc.* so far as the Church or Church-yard extends, assess the Inhabitants of the parish a reasonable Rate, to be paid by the Churchwardens of every such parish for the same being, who in the behalf of the parish are required by that Act to pay the said Rate, 22 & 23

Caroli 2. Chap. 17.

CHAP. LXXI.

their Choice of Surveyors, giving up their Accounts, making Distresses Of Forfeitures, Proclamations; and where, and whereof they may give them in; with other things. ... 13

THE Business of the Churchwardens is to be conjoin'd with the Constables, in choosing the Surveyors for the High Ways, and appointing proper Days for their Work; also is the Oversight of the High Constable, to account for Monies levied by way of Forfeitures relating to the High-ways; and with the Assistance of two Justices of the Peace, one to be of the *Quorum*, oblige the High Constable to account for, and pay the Money so coming to his Hands; and to execute the Justices Warrant for Forfeitures and Penalties for not cleansing the Streets or repairing the Highways, 14 *Caroli 2. Chap. 2.*

The Churchwardens taking to them the Assistance of the Overseers of poor, have power to execute the Warrants directed in the Woolen Burying Act, and levy the Five Pounds Penalty by Distress and Sale of Goods for Non-payment, to be employed to the poor of the parish where such Offence is committed, 18 *Caroli 2. Chap. 4.*

In *London, Westminster, the Barrengh of Southwark, &c.* The Churchwardens together with the Constables, Overseers of the poor and Surveyors of the High-way in every parish respectively, or a greater number of them are on *Munday, or Tuesday* in *Easter Week* yearly upon giving publick Notice to call together such other Inhabitants as have born the like Offices, to nominate and make choice of two fit persons being Tradersmen of their Parishes to be Scavengers for the Lanes, and Streets,

104. Of the Duty to Churchwardens.

Streets, other open passages of each Ward or Division within the said parish, to continue for the space of a Year, or till others are chosen and settled in their place. *2 W. 2. c. 28.*

At the end of the Year, or within one Month after at farthest, the Churchwardens are to give up the Account of their Receipts and Disbursements before the Minister and Parishioners, and upon quitting their Office, to deliver up to the Parishioners such Mony and things as are remaining in their Hands, that it may by them be delivered over to the succeeding Churchwardens by Bill Indented; *Canon 89.*

Upon Refusal of this they may at the next Visitation Court be presented for it, or an Action of Account may be brought against them at Common-law by the Succeeding Churchwardens, to compel them to it, and their needful Expenses and Disbursements upon the Account and Business of the parish, upon making up their Accounts, shall be allowed them. *11 H. 7. c. 13. 21 H. 7. c. 13.*

As for Presentments, they are not obliged to make them above once in the Year, where by Custom it has been no oftner a use, nor in any Diocess whatever above twice a Year, unless it be at the Bishop's Visitation; and for such presentments of every Parish church or Chappel, the Register of the Court where they are Exhibited, is to receive no more than 4 s. a year his fee for Registering them. But the Churchwardens of their own accord may oftner make their presentments, *Canon 116.*

One of the Times of presentments is ever to be about a Fortnight after *Easter*, and at that time they are to resign their Office to the Succeeding Churchwardens, and the new ones cannot be Sworn before the old ones have given in their presentments and every Parson, Vicar, or in their Absence their

Curate

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Carates, in the said presentments, are to join with the Churchwardens, &c. And upon the Request of the Churchwardens, to make presentments, the Parson, Vicar, or their Carates in their absence may make their presentments to their Ordinaries at all such Times, and when else they shall think fit, *Canon 113, 118.*

It is provided that no Churchwardens, Sidesmen, or Quessmen shall be cited or called, but only at the Times limited to appear in the Ecclesiastical Court, or before any Ecclesiastical Judge whatever; for refusing to present any Faults committed in their Parishes at other times, and by the Ecclesiastical Law punishable; nor be further troubled after their Presentments delivered at the usual Times, unless it manifestly appear they have wilfully neglected, and wittingly omitted for Fear, Affection, or otherwise, to present some one or more notorious Crime, or Crimes, or upon any Cause arising, to call them in order to explain their former Presentments; and the Ordinary in case of such wilful Omission may proceed against them, as in the Ecclesiastical Courts, in case of wilful Perjury the Law has provided, *Can. 117.*

C H A P. LXXIII.

In Obedience of Presentments, or Qualifications given wherein to Found their Presentments, that the Churchwardens may know what to do in the Case.

WHETHER the Church, Church Bells and Ropes be in good Repair. The Lord's Prayer, Ten Commandments, and Creed be drawn in plain Letters; what Afflictments are made for their Repair of the Church, and the Names of such as make

make Default in doing them; whether there be a Communion Table, Candles, and Font in the Church, and all other necessary and convenient in Church and Church-yard, whether the Church is handsome, and the houses are in good Repair.

2. Whether the Pastor, Vicar, or Curate Read the Common-prayer at Morning and Evening Service, with his Surplice, or Parson's gown, on a Day, Week, Month, Quarter, Year, or Festival, Latin, French, or English, and also his Benediction, *Exorcism*, against the Government's Licence, he Celebrate the Lord's-Supper at least three times every Year, once to be at Easter, whether he Baptize Infants with Godfathers and Godmothers, bury the Dead according to the Form prescribed in the Book of Common-prayer, Preach in his Gown, Visit the Sick, and Pray with them, whether he Marry Children singly, that be a Single Man, give Charity, and be a Peace-maker in his Parish; whether once every Year at least he Read the Canon to the Parishioners, and twice every Year the 39 Articles.

3. Whether the Parishioners at due Age resort to the Parish church to hear Divine Service, and there Reverently and Decently behave themselves; whether any Work, or Sell-Wares on the Lord's day, &c. Whether Vintners, Inn-keepers, or Ale-house-keepers, keep Tipling in their Houses on the Lord's day.

4. Whether any be Married within the prohibited Degrees, or be Adulterers, Fornicators, Swearers, Drunkards, Blasphemers, Sorcerers, &c. whether all the Parishioners above 16 Years receive the Communion, at least thrice in the Year, *Easter* to be one time; whether any unlawfully keep their Children from being Baptized,

167 Women decline the usual Time of being washed after (their Delivery); whether any or not their Dead to be decently Buried after Service of the Church; whether any have a Married Woman the Possession of Banns, License, or at unlawful Hours; whether their Schools, Almshouses, Schools, or Spitties; if belonging to them, be well and Godly used, any thing wanting from them; what Laws are given to Pious Uffers; if (the) Par- sonal and Justice place in their Seats without distinction; whether the Churchwardens or Overseers the Parson, clerk or Sexton be schooled, can Write, Read, make the Rave and be an honest Man. If the School- man, Uffers, Physicians, Chyrurgens, or Mid- wifes any be in the Parish, Teach or Practice without License; whether the Churchwardens duly choose in the Week after Easter, by the Vestry and Parishes; according to the Geo- or Customs; whether the old Churchward- ens have been careful to keep the Church in repair, to keep, and carefully fence all Furni- ture belonging to the Church, &c. And whether the middle of Divine Service, they walk out of the Church to visit Taverns, Inns, Ale-houses, or where Tipping may be used, and to see if any Coytering, or Excessing any Sports on Lord's-day.

These are the chief things to be presented; if
 other Matters may occur, are rather Ac-
 cidental than Certain; and therefore these may
 suffice for the Churchwardens' Instru-

CHAP. LXXIV.
Several Nice Matters laid down for the Instruction of Churchwardens in their Office and Duty, &c.

IF a Bell be broke, the Church-wardens may have an Action against him that so broke it, as caused it to be broken, and recover Damages to the Use of the Parish.

If any one take the Organ out of the Church, the Church-wardens may bring an Action of Trespass, for the Organ appertain to the Parish, and not to the Parson; so no Action will lie in the Parson's Name, nor can he sue the Party that took them in the Ecclesiastical Court.

The Church-wardens have no Action at Common Law to recover a Legacy never in their Possession; But for any Goods and Ornament of the Church, being once in their Possession, or Custody, they may maintain an Appeal of Robbery against any one or more persons that Steal them, and an Action of Trespass against him that, without Right, take them away, even against the Parson or Vicar so offendings; and the Damages to be recovered against such Offenders, shall be converted to the Use of the Parish. But if it so fall out, that whole Church-wardens, from order, whole Custody the Goods were taken, whence to Die before they have brought any such Action, the succeeding Church-wardens, have no Right by Law to bring an Action for the same Goods.

If a Church-warden presents that any Parishioner, certifying his Name, is a Railer, common Disturber, or sower of Discord among the Neighbours, unless it be done in the Church or Church-yard, a Prohibition lies, if the Presentment be made in the Ecclesiastical Court; because it is the

Lect.

lect, and not in the Church-warden, if the Offence be committed elsewhere, that is to prevent it. If a Suit be commenced by the Church-wardens in the Court Ecclesiastical, for a Churchway claimed as a Right belonging to all the Parishes, and by Prescription; here a Prohibition lies, it is a Temporal Case, and not in the Jurisdiction of the Spiritual Court.

If any one be Sued in the Ecclesiastical Court, for refusing to Feast and Entertain the Church-wardens and those that go with them in their Circumlocution or Procession, with Bread, Cakes, Cheese and Ale, though his Ancestors living in the same House had done it on the like occasions, time out of mind, a Prohibition will lie against it; for that in such Cases the Church-wardens claim it in the nature of a Corody.

And now for Brevity sake I pass over some other little Matters, not mainly significant, belonging to this Office, directing the Church-warden for his better Information, of many things that concern his Office, to peruse the Office and Duty of a Constable, where he is jointly impowred to act with him in many particulars, not here so expressly set down, and in which he may see more copiously what in Criminal Matters he is to do.

The end of the Office of a Church-warden, &c.

The Duty and Office of the Overseers of the Poor.

C H A P. LXXV.

The Office of the Overseers of the Poor; how to be Qualified and Chosen, where they may Act; and what degrees of Poor they are to have regard to, in order to Relieve them.

THis is an Office very commendable, and of great Trust, chiefly requiring Diligence, and

a good Conscience in the performance of it. It is of great Antiquity, and the Roman Senators gloried more in this than in all their honourable Trusts and Promotions; they were prouder to be Ailed Patrons of the Poor, than of any Dignity whatsoever; and well administered, it gains not only a good Name here, but has God's Blessing along with it, to make those that well discharge their Duty, eternally Happy hereafter.

These Officers ought to be credible, honest, substantial Men. They are to be yearly chosen, and joined with the Church-wardens of the Parish, in the Oversight, due Regard, and Care of the Poor; they are to be made, choice of by two or more of the Justices of the Peace; one to be of the *Quorum*, who are enjoined yearly, at Easter, or within a Month after, under their Hands and Seals, to appoint 4, 3 or 2 Substantial House-keepers, according as the Parish requires to be joined with the Church-wardens, to oversee and look to the Poor in their Parish, according to the Statute of 43 *Eliz. Chap. 2.* 31 *Jacobi 1. Chap. 28.*

In this Case the major part of the Officers, without the remainder, may do any thing belonging to their Office, with the Allowance and Consent of them, either in particular or general, with two Justices of the Peace, one to be of the *Quorum*, and when they are not hindered by just Occasion, the Excuse to be allowed by two Justices of the Peace; they are to meet on the Lord's-day in the Church morningly, after Evening-prayer, to consult of such Matters relating to their Office, as may turn to their best Advantage; and upon neglect, without such reasonable Excuse, are liable to forfeit 20 s. for every Default, 43 *Eliz. Wingate's Stat. Tit. poor People.*

And if according to the 43 of *Eliz.* they be not regularly and duly appointed, then every Justice of

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of the Peace, or Head Officer of that Division forfeits 5*l*. which may be levied by a Warrant of Sessions, and employed to the Use of the Poor where such Default is made.

Of the Poor, there are reckoned 3 sorts or degrees; and first, those by Defect and Impotency, as the Aged and Decrepid, being past their Labour.

The Infant, Fatherless and Motherless, not capable of being set on Work.

Those naturally Disabled, either in Wit or Members, as the Lunatick, Idiot, Lame, Blind, and the like, not being able or capable to Work; and Persons being visited with grievous Sickness and Diseases, though Casually; however, being for a time, thereby rendered Impotent.

These in their degrees are to be provided for, and the Overseers are to take care they have necessary Relief, and such proportionable Allowances as shall appear convenient, according to the measure and continuance of their Needs and Maladies.

Secondly, Such Poor by Casualty, such as are casually Disabled or Maimed in Body, as Labourers, Soldiers, Mariners, &c. Maimed, or so Disabled in their proper or lawful Calling. Also the decayed Householder, by Casualty of Fire, Losses at Sea, Suretyship, Robbery, or Decay and Loss in Trade, &c. A poor Man or Woman ever charged or burthened with Children, and unable to keep them by their Labour. All these, and the like, having Strength and Ability of Body, but no means whereby to Sustain themselves or Children, are to be set to work; but if the Profit thereby arising, procure not a sufficient necessary Maintenance, so that they cannot live thereby, they are Objects of Charity, and to be relieved at the Charge of the Parish, in some reasonable

sonable proportion and measure, as their respective Wants and Necessities shall render them deserving in the just Opinion of the Overseers, under whose Care they are.

Thirdly, Such as are Thirstless, who have wasted what they had by Prodigality and Riotousness, Playing, Drinking, Debauchery, and the like, or such as are Dissolute, Strumpets, Pilferers, idle Persons refusing to work, Vagabonds that will settle in no place, nor be content with Service; and for these the House of Correction is appointed, where they are to be kept, and if of able Bodies put to hard Labour, to maintain themselves by it, without being chargeable to the Parish, Town or County for any Allowance; however, they are not to be suffered to perish for Want; but in case any of these last sort prove Impotent, by Sicknes, want of Ability of Body, or that their Work will not supply what is needful for the Necessaries of Nature, then in their extrem Necessity there must be an Allowance by the Town, &c. *Dial. Just. P. Chap. 73. Folio 170.* And where the Parents are able to Work for their Children, so that it will maintain them, they may be compelled to do it; but if overburdened, the Overseer, at their Discretion, may take what Children they think fit off their hands, and put them Apprentices, or otherwise dispose of them to Necessity, or else allow the Parents something tolerable to keep them. *15v*
The Father, Grandfather, Mother, Grandmother, Children and Grand-children are obliged to relieve those so allied to them, that are poor and impotent, if themselves are of Ability, in such manner as the Justice shall order at their Quarter Sessions, by assisting the Parish or Parishes, and upon obstinate Refusal or neglect to obey their Order, a Penalty of 20 s. every Month

is forfeited to the Poor of the Parish, to be levied by the Church-wardens, Overseers, or one of them, by Distress and Sale of the Offender's Goods, having first, to that end, received a Warrant under the Hands and Seals of two Justices of the Peace, one to be of the *Quorum*, and in defect of such Distress, the Justices may commit the Offender to Prison without Bail or Mainprize, to remain there till the Forfeiture be paid, 4 *Eliz.* 2 *Dial. Just. P. Chap. 73. Fel. 156. Just. Judges 16, 17.* But a Grandfather-in-Law, if he has no Estate with the Grand-mother in Marriage, or that after comes to her, is not held liable to this, though he brings her considerable of his own, or is afterward enabled by his Industry, or at least if the latter, which is held doubtful, he is obliged to it no longer than his Wife lives; *Second Part of Just. Reports Fel. 245, 246, 247.*

If any Poor Beg in the Parish, a License must be granted for it by the Overseers; and as in the High-ways, by those Overseers. And by an Order of Sessions, a Cottage may be erected on the waste of a Mannor, and poor Inmates may be lodged therein; but it is afterward to be employed to no other Use. And such Poor as cannot get Work, and are able, are to be set on Work by the Overseers; and a Justice of Peace may send such to the House of Correction, that being employed by them and the Church-wardens, will not Work, being not otherways able to maintain themselves, and they, with the consent of two Justices of Peace, or more, one being of the *Quorum*, may set up, occupy, and use any Mystery, Trade or Occupation, for the better Relief of the Poor in the Parish. Town or Place within their Districts, to set them on Work, which is very commendable, and may be wished, it were more put in Practice.

What relates to the Office of the Overseers, in taking care to put poor Children Apprentices, and what Indenture is required to bind them, &c.

IN this, Care must be taken, that they must be so placed, as not again to be chargeable to the Parish, and that they may learn such useful Crafts and Mysteries, as when their Time expires, with Labour and Diligence, they may be enabled to keep themselves and Children, their Age to be above 7, and under 25, when they are so placed; and in doing this, the Overseers must have the Consent of two Justices of the Peace, and they may Bind Men-children to the Age of 24, and the Female to the Age of 21, or till she be Married, which first shall happen; but it must be within the Parish or Hurdwell, and they may give Money, if they cannot put them off without, and the Master's refusing to take them; when so offered, may be presented and indicted for the same upon the Statute of 4; Eliz. at the Assizes or Sessions of the Peace; and Parents refusing to let them be so put Apprentice, without good Cause shewed for it, may, by the Justice, be bound over to answer the Default, and the Children refusing, may be sent to the House of Correction, till they will comply. He or she must be Bound by Indenture, and the word Apprentice specified in it, or else it is not Binding. The Form of which, for the better Transcription and Asson, by those that are ignorant of it, I shall here set down.

The Form of an Indenture of an Apprentice put out and Bound by the Overseers, &c.

THis Indenture made the 10th of December, in the Twelfth Year of the Reign of our most Gracious

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Gracious Sovereign King William the Third, by the Grace of God, of England, Scotland, France and Ireland, King, Defender of the Faith, &c. Anno Dom. 1700. witnesseth That A. P. and L. G. Overmen of the Peace in the Town of Nottingham, and R. M. Church warden of the same Town, by and with the Consent of G. B. Esq; and L. G. Esq; two of his Majesty's Justices of the Peace of the County of Nottingham, have by these Presents Placed and Bound L. C. being a Poor and Fatherless Child, as an Apprentice to W. H. of Nottingham aforesaid, Shoemaker, and as an Apprentice with him the said W. H. to dwell from the day of the Date of these Presents, until he the said L. C. shall come to the Age of 24 Years, according to the Statute in that Case made and provided, by, and during all which Time and Term, the said L. C. shall the said W. H. his Master, well and faithfully Serve in all such lawful Business as the said W. H. shall put him the said L. C. unto, according to his Power, Wit and Ability; and honestly and obediently in all things shall behave himself towards his said Master and all the rest of the Family of the said W. H. And he the said W. H. for his part promiseth, covenanteth and agreeth, that he the said W. H. the said L. C. in the Art and Mystery of Shoemaking, in the best manner that he can or may, shall Teach, Instruct or Inform, or cause to be Taught, Instructed or Informed as much as thereunto belongeth, as he the said W. H. knoweth. And also during all the said Term, to find unto him his said Apprentice, Meat, Drink, Linnen, Woollen, Hose, Shoes, Washing, and all other things necessary or needful for an Apprentice. In Witness whereof we the said W. H. and L. C. have interchangeably set our Hand and Seals, the Day and Year of Date aforesaid.

Note, In this Case the Binding is effectu-
 al to all Purposes, as if the Child were of full
 Age, and did bind themselves by Free Choice and
 Indenture and Covenant, and they so Bound may
 Lawfully receive and inherit their Masters or
 Mistresses, to whom they are Bound, Only if the
 be a Female, her Marriage will release her,
 though the time of her Indenture be not expired,
 but in all other Cases of Indenture on this account,
 and here, otherwise neither Sex can be dischar-
 ged from their Masters or Mistresses, to whom
 they are Bound as Apprentices, but by a Justice
 of Peace at their own Request, or with the
 Agreement of the Master, or as Apprentices,
 under the Master's Hand in Writing, as was said
 before, which was not made in this case.

CHAPTER LXXVII.

Now the Overseer is concerned with finding the
 Poor, and what otherwise relates to the same
 Points relating to Bastards, &c.

By Settlement of the Poor, it is here meant
 such as are likely to be troublesome and
 chargeable to the Parish or Place where they re-
 side. And by the 12 and 13 of Charles 2. Chap.
 2. The Overseers and Church-wardens making
 a Complaint to any Justice of Peace within
 40 days after any Person that is poor and likely
 to trouble the Parish, cometh to settle in a Par-
 ish, one being of the Quorum, by Warrant under their
 Hands and Seals, may remove such a Person to
 the Parish where they last had a legal Settlement
 of the space of 40 days or more, unless it can
 be by them given, that the Justice shall ap-
 prove of, to secure the Parish, &c. from Damages

or Charges that may ensue, and all Persons aggrieved have free Liberty to appeal to the Quarter-Sessions.

In Harvest or Work-time, poor Persons settled in a Parish, having a Certificate under the Hands of the Minister of the Parish, one Church-warden and one Overseer of the Poor, declaring them Inhabitants there, may go into any of the adjacent or distant Parishes to Work, and if they do not return, by reason of Sickness or any other Impediment, it shall not be accounted an Impediment, though they stay after their Work is done; and if any return from the Parish from whence they are removed, it is in the Power of the Justice of the Peace to send them to the House of Correction, where they may be punished as Vagabonds, or, at his Discretion, he may send them to a common Work house, there to be employed at hard Labour, and upon the Refusal of the Church-wardens or Overseers of the Poor to receive them, and provide them Work, or they may, by the Justice, be bound over to answer it at the Sessions or Assize.

In Case of a Bastard Child Born in any Parish, the Churchwardens and Overseers for the Poor may, in laying the Parish harmless, seize so much Goods, Profits or Lands to its use, belonging to the Lewd Mother or Reputed Father, as will discharge the said Parish, or toward the discharging of it, from such Charges as may thereby incur, which is to be awarded and settled by two Justices of the Peace, and confirmed at the Sessions; and there an Order may be made to the Churchwardens and Overseers, by Sale, or otherways, to dispose of the Goods, as to them shall seem meet, and the Profits, or so much of the Profits of their Lands as by Sessions shall be ordered. Vide if the Act of 13 and 14 Car. 2. c. 2. be revived.

No Man is to be put out of his Dwelling in a Town where he is lawfully settled, or to be sent to the place of his Birth, but a Vagrant Rogue, nor to his last Habitation, nor is he to be maintained by the Town, unless he be impotent, but they ought to settle themselves to Labour if they are able, and can get Work, and if Work cannot be gotten by them, the Overseers are to set them on Work, and if after they wander begging in other Parishes, they may be charged as Vagabonds, and sent to the place of Birth, *Dalt. 9. P. C. 84. Fel. 109.*

If a Scholar in a Grammar School or University, be suspect to be an Incumbrance, if he doth become impotent and is like to be a charge to the Parish where he is, he may be sent to his Parents if he have any, otherways to the place where he was last Legally settled before he came to School, *Refol. Judges 1637. Sed. 31.*

If a Woman be sent to the House of Correction and there delivered, the Child must be sent to the Parish whence the Mother came, and there relieved.

If a Woman be Travelling and hath her Child with her, and is for any Fault or Breach of Statute apprehended and sent to Goal, although she be executed for her Crime, the Child is not to be charged on the Parish where the Goal is, but must be sent to the place where it was Born, if it can be known, otherways to the place where the Mother was apprehended, according to the Opinion of Sir Nicholas Hyde, 3 *Caroll 1.*

If a Woman unmarried be hired Weekly or Monthly, or by the half Year or Year, in a Parish, and there be gotten with Child, and so goeth into another Parish, and there for 2 or 3 Months is settled in Service, and being then discovered to be with Child, in this case she must be settled in the Parish

Parish where she is, and must not be sent to the Parish where she before was, *Resol. Judges 1533. Sess. 22.* If a Woman be delivered of a Bastard Child in one Parish, and so departeth into another Parish with her Child. In this Case the Child after being Nursed, is to be sent to, and settled in the place where it was Born, and not to remain with the Mother, *Resol. Judges 1533. Sess. 22.*

CHAP. LXXVIII.

The Office of the Overseers of the Poor in making Rates, and how they must behave themselves therein: and of making and delivering up their Accounts upon going out of their Offices, &c.

THE Overseers for the Poor, with the Churchwardens, or the major part of them, for enabling them to perform the things they have in charge, may raise weekly, or otherways, by Taxation of every Parson, Vicar, and the Occupier of Land, House or Tithes, Grocemens, or Underwoods saleable within their Parish or Division, such a Sum as in moderation they shall think fit; but the Rate must be allowed and confirmed under the Hands of two Justices, one being of the Quorum, and then may be levied by Distress and Sale of Goods upon refusal of Payment or neglect, by Virtue of a Warrant from any other two Justices, one being of the Quorum, rendering the overplus to the Owner; and for default of Distress, two Justices may commit the Party to remain in Prison, without Bail or Mainprize, till Payment be made, or the Justices think fit to discharge him. 43 *Elin. Chap. 2. Dalton, Just. B. Chap. 73. Folio 148. Wingates Stat. Tit. Poor People.* And these Rates ought to be made according to Mens real and visible Estates within the place.

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pl's only, and not according to Estates elsewhere and further.

Observe, that a Parish in Reputation is deemed good within the Law; For granting a RING with very Ancient, having Officers in it, &c. &c. here is a Town within the Parish, that for time out of Mind, or least a long time hath been used and reputed as a Parish, and hath all parochial Rights, as Churchwardens, &c. in such a Case it may be Rated as a Parish towards the Poor, *Hutton's Report Folio 23*, and others.

And there must be care taken in Rating and Levying this Tax, for it must lye on the Tenants occupying Land, &c. and not on the Landlord, in nor out of the Parish, for the first is only chargeable for the Land, *Bulstrode, 1 part Rep. 23*.

Any Person having a full Tenth in a Parish may be Rated a Tenth part, *Reps. 7th 1033*. See also *2nd 1034* and *3rd 1035* of the same Statute.

If any Person occupy Land lying in several Parishes, he must in this Rate be accountable for them proportionably in the Parishes where they lye; but it seems reasonable that for his Personal Estate he should be chargeable in the Parish where he is an Inhabitant.

In Rating Stock or Goods it is to be Rated according to the proportion of Land Rent, as five or six pounds a Year in Land to be held equal with 100 *l.* in Goods or Stock, *2nd 1034*.

In a Parish where the Inhabitants by reason of their own Poverty or sickness, are not able to relieve their Poor, two Justices, one being of the Quorum, may by Rate Tax other places and Parishes within the Hundred, or all the Hundred if necessity requires it; and this not proving sufficient, the Justices in their Sessions may Tax the County in part, or wholly if they think fit, *43 Ed. 1. Statute Bridge, Stat. De. Poor People*. And if any Person

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Person find himself aggrieved by any Act done by the Justices of the Peace or Overseers, they may for Redress apply themselves to the Justices in the Quarter Sessions. *Diall. Just. p. 11. Chap. 73. Folio 160. B. 6.*

If a Parish shall reach to and lye in two Counties, or one part thereof to lye in any City or Corporation Town where there are proper Justices, in that case the Justices of each County are to meddle so much as appertains to the Party lying in the County of which they are Justices, and so of the other part, and yet the Overseers shall without dividing themselves, execute their Office in all places within the said Parish, but shall give up their Account to the Justices or Head Officers of both places. *Wingates Abridg. Stat. Tit. Poor People. 4. Edw. Chap. 2. Diall. Just. p. 11. Chap. 73. Folio 160. B. 6.*

The Overseers of the Poor are within 4 Days after their Year is expired and other Officers nominated their Successors, to give up their Account in Troth before two Justices of the Peace, one to be of the Quorum, chiefly to this purpose.

1. What Stock of Money they have received or Rased, and how come to their Hands. 2.

What Stock of Stuff or Ware is in their own, or in the Hands of any of the Poor. 3.

What Apprentices they have put out, and bound according to the Statute. 4.

What Poor they have set to Work or relieved. 5.

What Poor they have suffered to beg or wander out of the Town in the High Ways, or in their Town without their Licence. 6.

Whether they met Monthly to consider of such Matters as are properly belonging to their Office. 7.

Whether they have made their Rates indifferent upon the Parishoners, according to their Ability. 8.

Whether they have truly endeavoured to gather and levy all As-

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fallments. *24.* Whether in them there has been any neglect of the Justices Warrants directed to them on any Account, especially those for collecting any Forfeitures, according to the Statute, 43 *Eug. Chap. 2. Dalt. Just. P. Chap. 73 Fole 142.*

25. Note, by the Statute made for the Burialling in Woollen, 30 *Caroli 2.* the Justices may not allow the Accounts of the Overseers of the Poor, till such time as they have given them an Account of the Banials, and Certificates, and of their levying the penalty by that Statute directed. If they refuse to give, in their Accounts, or make and yield a true and perfect Account to the said Justices, of such Money and Stock in their Hands, as has been mentioned, two Justices of the Peace, one being of the Quorum, may commit them to the Common Goal, not to be dismissed till they shall render a true Account, and payed or satisfied the succeeding Overseers, so much of the Sum and Stock as shall any ways appear to be remaining in their Hands, and upon making a full Account, lye liable to be bound over to the Sessions or Assizes, where an Indictment may be preferred against them, *Dalt. Just. P. Chap. 73. Fole 141.* Or the Justices, or any two of them may grant a Warrant to the succeeding Overseers to levy the Sum upon the Goods and Chattels of the Offenders, by Distress and Sale, and for want of such Distress, may commit them to Goal till Satisfaction be. But note, upon Sale the Overplus is to be returned to the Owner, 42 *Elix. Chap. 2.*

If it so happen that any part of such Stock shall be found or known to be in the Hand of any Poor, upon refusal of delivery, two Justices may by Warrant cause the value to be levied, or for want of wherewith on which to make Distress, commit the Party to Prison, as in the former Cases, *Dalt. Just. P. Chap. 73. ibid.* And

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And for these and all other Faults and Negligences of Churchwardens and Overseers, relating to the Execution of their Office, as to the Poor, &c. for every such Default made by any of them, he is to forfeit so much upon Proof, by Confession, or Examination of Witnesses, to be levied by Warrant of two Justices of the Peace, by Distress and Sale of Goods, or for want of it the Offender to be Imprisoned, and the Money so levied to be Employed to the use of the Poor of the Parish, *Dalt. Just. F. Chap. 72. Held 15. 43 Eliz. Chap. 2.* So that by the Law great care is taken that these Officers shall not be wronged in their just Rights, nor the Parish or Poor be wronged by them.

C H A P. LXXIX. 1719 (1713)

The Office of the Overseers of the Poor is including Fines to the use of the Poor in some Respects; of Destroyers of Game, unlawfully Fishing, also relating to Measures and Daring in Woods.

IT is the Business of the Overseers of the Poor, to receive such Fines or Forfeitures as accrue from Offences in such, as in the Night time Kill, or take any Coney upon the Borders of Warrens, or such Grounds where the Owner may lawfully keep Coney, the Parties so Killing or Destroying, not being Proprietors, nor allowed by the Owner.

Also of such as use Hare Pipes, Snates, or such like Implements, or take Fish by any Nets, Angling, or other Device, in any Water or River not lawful, or shall be assisting thereunto, without the consent of the Lord of the Mannour or Owner of the Water: and the Sum for these Offences is to be amerced by the Justice of Peace before whom the Party offending shall be convicted, the Sum not exceeding Ten Shillings, over and above what the Owner may have or recover his Da-

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Damage sustained for ; and the party for Default of payment may be sent by the Justice to the House of Correction, for any time not exceeding a Month, unless he enter into Bond with one or more Sureties to the party aggrieved, the Sum not exceeding Ten pounds, never in the like manner to offend any more ; and for these Offences the Offenders Goods are liable to Distress and Sale, but then the Imprisonment must be remitted upon Satisfaction that way made, 22 *Carol. 2. Chap. 24.*

As to Weights and Measures the Overseers for the poor as well as other Officers, ought to have a special Regard to them, and in this case there ought to be one Weight, one Measure, and one Yard, according to the Exchequer Standard in every part of the Realm, as well within as without places privileged ; and every Measure of Corn is to be stricked, and those that keep different Weights and Measures not agreeing in all respects with the Standard, to buy and sell by, being convicted thereof by the Oath of two Witnesses, before any Justice of Peace, or Head Officer of the Town or place where the Offence is done, shall forfeit five Shillings, to be levied by the Churchwardens or Overseers of the poor in the parish where the Offence is committed, by Distress and Sale of Goods upon Warrant, and for want of such Distress the Offender to be committed to prison without Bail till payment be made ; and if any person be troubled for any Matter concerning his Office, in this case he may plead the General Issue and give in Evidence, the Act of 17 *Carol. 2.* And to have treble Costs if the Suit so brought prove vexatious, *Dalt. Just. P. 112. Folio 246. &c.*

The penalty of 5*l.* is to the use of the poor where any persons shall be buried in any Garment, Winding

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Winding-sheet, Shroud or other Materials not made of Sheeps Wooll only, as if the Coffin the Dead Body is put into, be lined or faced with any thing made of any Material but Sheeps Wooll; and the Churchwardens and Overseers of the poor are to take care of, this in all respects that the Forfeitures be duly Levied. See more, 20 *Carols 2. Chap. 2. Sec.*

And thus much briefly for the Office of the Overseers of the poor. See more in the Office of

A Constable and Churchwarden, where many things belonging to their Office are intimated, and therefore here omitted, or but slightly touched on.

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A Constable and Churchwarden, where many things belonging to their Office are intimated, and therefore here omitted, or but slightly touched on. *G H A P. LXXX. OF Fairs and Markets, Toll and Toll-Freeports, Clerks of the Peace, their Office and Duty in some Parishes, &c. in Measures, and Measuring, Sealing, &c.*

A Fair must be kept no longer than the Grant or Use by Custom, will Warrant for what is Warrantable; and Goods to be Sold after the Expiration of the Time, to Merchandize, &c. The Seller shall forfeit to the King double the Value of what is Sold, and the prochein shall have the fourth part; the Fair must be duly proclaimed by the Sheriff, or Lord of the Fair, and the Time it is to continue mentioned, the place or ground appointed, let out, and care taken that there be no Riots, or Disturbance, but an Orderly keeping of it during the Time it lasts.

Where there is a Beasts Fair for Horses, Mares, Geldings, and other Cattle, they must have their appointed place, that those that resort thither may have a Certainty where to find them. And one sufficient person, or more must be appointed to take Toll, and keep the Fair place from Ten

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In the Forenoon, every Day till Sun. Set, during the Time of the Fair or Market, upon pain to forfeit for every Default 20 s. And in Polling, the party thereto appointed must be before him the parties Bargaining, within Polling any Horse, Mare, &c. And must Write in his Book the Christian Name, and Sir Name of all the Parties; also their Dwelling places, with the Colours and some particular Marks of the Horse or Mare, &c. to Sold or Bargained for, or Penalty to forfeit for every Default 20 s. and he is to have one Credible Person known to him to Vouch the Horse or Mare, &c. and testify his Knowledge of the Seller, and his Name and place of Abode must be entred with the others in the Book, with the Colour, Mark, or Price of the Horse or Mare, Sold or Exchanged, and the Buyer requiring it, may have a Note in Writing out of the Book, Reciting the Contract and Toll-keepers Hand thereto, for which he may take Two-pence.

If any Toll-keeper suffer a Sale to pass without a Voucher, unless he well know the party, and every Party making a false Testimony, or Avouchment, or every Seller unknown, not bringing a Voucher, and causing the same to be entred, forfeits Five Pounds, one Moiety to King, and the other to the Prosecutor, and the Sale of the said Horse, &c. to be void. Yet notwithstanding such Breaching, the Owner of a Stollen Horse, &c. or his Executors or Administrators, claiming him within six months after the Stealing, may Redeem at the price he was Sold for, making proof that it is his, and that it was Stollen by two sufficient Witnesses before a Justice of the County where he is found, or the Head Officer or Magistrate of a Corporation, and the price to be paid, as the Buyer upon Oath shall testify before the Justice, he paid for him; and if the Stollen Horse

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be not Sold in open Fair or Market, and lawfully Told, the Right is for the Owner from whom he was Stole, and he may Seize or Replevy him in any place where he finds him.

If any person Buy Oxen, Goats, Sheep, Calves, Heifers, Lambs, &c. alive, he shall not Sell them again alive till he has kept them in his pasture by the Space of five Weeks.

As for Measure there shall be only the Winchester Bushel, and no other Bushel, and that to contain 8 Gallons; and who so Sells by any other, according to the 22d. Caroli 2. Chap. 9. forfeits 40 s. And upon the Clerk of the Market's refusing to Seal such Measure as shall be full Gauged, he forfeits for the first Offence 5 l. for the second 10 l. Or if the King's Clerk of his Market or his House exact, or take more Fees than his due, that is, above one penny for Sealing a Bushel, a Half penny for half a Bushel, and one Farthing for Measures of less proportion, he incurs, and shall undergo the penalty in the Statute, Caroli 1.

A Brass Bushel is to be chained to a post, or publick place in the Market-place, at the Charge of the person taking Toll for the publick Use of Measuring, upon penalty of forfeiting of the Pounds, 22 Caroli 2. Chap. 8.

Who soever shall Sell or Buy Corn without Measuring, being therunto required, so Selling or Buying it in Sacks, or Bags, or in any other thing, shall forfeit the said Corn, or the value thereof to the party making his Complaint of this Offence against the Statute, 22 & 23 Caroli 2. Chap. 22. And upon Complaint the Defendant by the Oath of one or more Witnesses before a Justice of the Peace, must prove that he or they did Buy or Sell according to the Statute of 22 Caroli 2. and 23 Caroli 2. or else pay the Forfeiture by the latter directed, which upon Warrant may be Levied

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Levied by Distress and Sale of Goods, the Warrant to be given under the Hand and Seal of one or more Justices, before whom such Conviction shall be, one half to the poor of the parish where the Offence is committed, and the other to the Informer, *Id.*

The Duty and Office of the Surveyors of the High-ways and Bridges, Scavengers in London, Westminster, the Borough of Southwark, &c. Which more particularly Direct what they are to do and observe therein, and how to remove the Nuisances, and order the streets for the Discharge of the said Office.

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Surveyors of the High-ways, their Office and Duty in the several mending the Ways, and Rating.

THough Ways are generally called the King's Highway, yet of Ways there are three sorts. 1. A Way where Men have a full Right to walk, to Pass, and Repass. 2. A common Foot way, and Horse way. 3. A Way for Carts and Wains, and all sorts of Carriages; and this latter is most properly called the King's Highway, free for himself and Subjects to pass and re-pass at all times; whereas some in the other Sense are Ways only to Grounds, Houses, &c. And Ways by Compulsion, and some again upon Sufferances in the publick Ways. All Nuisances or Stoppages are Indiscreet, especially if not timely removed on Notice given, or the Lord of the Soil for any digging or spoiling the High-ways, may bring his Action against the Offender.

14 The Surveyors duly chose by the other Officers, with the Advice of the Inhabitants, of the major

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major part of them upon publick Notice before gives, are diligently to oversee those that Work on the days appointed, for the digging and carrying Gravel and other Materials, for mending such Ways where they shall find them defective, giving them Directions in order thereto, and upon publick Notice or Warning, the Persons so qualified are to send their Carts and Labourers.

Every Person having in his own Occupation a Plough Land, in Tillage or Pasture, or keeping a Plough or Draught in the same Parish, is liable to send, according to the Custom and Usage of the County wherein he resides, or is so legally charged, a Wain or Cart with Oxen or Horses, fit for Carriage and Work of this nature, attended by two able Men, who shall do such Work as shall be, by the Surveyors, appointed them, for the space of days, Working Scholars every such day, under the Penalty of forfeiting for every days Default to say and every other householders, Outser or Labourer, not being householders, shall in Person attend the Service for Work, or send an able Man in his stead, under Penalty for every Days Default to pay 12 d. and all other Persons, being no otherways chargeable; but Cottages being Subsidy 5 l. in Goods, or 20 s. by the Year in Lands, or above, they must send workable Men to Work in the Service and shall not be excused. It is in the Discretion of the Surveyors, if there be more Carts, Wains, &c. than are necessary, to appoint two able Men instead of a Team, on forfeiture of 12 d. each, in case of Default. And if in 5 days the Ways cannot be conveniently mended, as with the usual time, they may set a farther time; but then they must make Payment for it according to the Rate of the County; and if hereupon there be no Agreement, the Justice may settle the Rates to be paid as he shall see fit.

If Materials be wanting, the Surveyors may take the small loose Stones from any Man's Quarry, and such Rubbish as he finds there, it being near the Road, without paying for it, but must not dig nor take away the great Stones. They may dig Gravel and Sand for the like Use, near any Highway, in other Mens Ground, not being their House, Yard, Orchard or Garden, without paying for it, the Pit not exceeding 10 Foot in breadth, and the like in width, which, as soon as the Work is over, must be covered up and made good at their Charge who caused it to be digg'd; or if it be so fill'd up within the space of one Month, they forfeit 5 Marks to be recovered by the Owner, by Action of Debt.

All Owners of Ground adjoining to the Highways are to keep their Hedges low and upright, that the Boughs or Brambles standing out may not hinder or offend Travellers; and that so the Sun may shine on the Ways, to dry them; and such as are negligent in this, may be Presented and Indicted, and thereupon forfeit 10 s. besides their Charges.

And in case Ditches are stopped up with Mud or Ouse that should be Drains to the Highway, so that the Water lies in it, and cannot have a current Passage, the Owner of such a Ditch or Water-drain shall forfeit 12 d. for every Rod so neglected to be scowted, by 18 Eliz. Chap. 10. And the Surveyor hath power to make Conveniences for draining the Highways, as Slopes, Outlets of Water, &c. into any Man's Ditch or Ground, for the better and more speedy Conve-
nience of passing the Road. If any Man, upon Cleaning a Ditch, cast the Soil into the Road, and suffer it to lie there above the space of six Months, he is liable to pay 12 d. per Load for as many as shall be adjudged to lie there.

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If a Justice of the Peace shall, upon his own Knowledge of any Nuisance on the Road, make a Presentment, it stands good, and two Justices, one being of the Quorum, may make the Amercement or Fine to be levied on the Offender.

These Officers, viz. Surveyors, have in their Care all Bridges within their several Parishes or Liberties, to see they are kept in good Repair, from time to time, at the Charge of the Parish, Hundred, or as the Custom has been, and is continued; and if a Custom has therein ceased for a time, it may be revived; for in some Cases particular Persons are bound, by Tenure of Land, &c. to repair part or the whole of a Bridge, &c. without a Parish Charge. But to instance these Particulars, would be too tedious for my intended Brevity; and many times a whole County has chargeable to be Rated for the Repair of a Bridge.

CHAP. LXXXII.

The Office of a Surveyor, in draining the Roads, making Presentments, and in what Case a Justice of the Peace may Break; how the Surveyor shall be Rated for Money laid out for Materials, &c.

A Surveyor may Cause a Water-course or Spring in the Highway, within his Parish, to be turned into another Man's Ground, or his Ditch next adjoining to the said way, for the Convenience of keeping the Road dry, as in his Discretion shall seem fitting. *Data. Chap. 50. Vol.*

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The Surveyors, or any one of them, have power to present to the next Justice of the Peace every Default; upon the 2 and 3 of Philip and Mary, Chap.

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Chap. 8. and 5 *Eli.* Chap. 14. within one Month after the Default made, on the Penalty of 40 s. and the Justice under Penalty of 40 s. must certify the same at the next Quarter-sessions, where the Bench of Justices have power to enquire of the Default, and to set such Fine on the Offender as any two of them, one being of the Quorum, shall think fit, 5 *Eli.* Chap. 1.

If any Justice of the Peace present in 8. shews upon his own Knowledge, it shall be a good Conviction, whereupon any two of the Justices, the one being of the Quorum, may assess a Fine as well as if the Matter had been found on the Verdict of 12 Men: But in this Case the Offender shall be, as in other Cases, admitted to his Traverse, 5 *Eli.* Chap. 13. *Rast.* 100. And all such Fines and Forfeitures are to be bestowed and employed towards the mending and bettering of the Highways in the Parish where the Offences are committed, *Wing. Abridg. Stat. Tit. Highways, 2 & 3 P. & M. Chap. 8.*

Where Surveyors have laid out their Money for Materials to mend the Ways, where without there were none fitting to be had, it is enacted 2 and 3 of William and Mary; That upon notice given by the Surveyors of Highways, to the Justices of the Peace, at their Grand Sessions, and Cash made of what Sum or Sums of Money are expended to that Use and Behoo: The Justices thereupon, or any two of them, under their Hands and Seals, may cause an equal Rate to be made, for the reimbursing the Surveyor or Surveyors, the Money by them to the Use aforesaid laid out, upon all the Inhabitants of such Parish or Township where it was expended, in Rates according to the Rules and Methods prescribed in 23 *Eli.* Chap. 2. for the Relief of the Poor; which Act directs the Tax to be laid on each individual Inhabitant.

habitant, as Parson, Vicar and others; and every Occupier of House or Land, Tyths Improperly, or Improvements of Tyths, Colonies or Saleable under Woods in the said Parish, so to be Rated; and the Rate so allowed and settled by the Justices, in their said Sessions, shall be gathered and collected by the Surveyor or Surveyors of the Highways; and if any one refuses to pay the Money according to the Rate assessed, It is lawful for the Surveyors to levy it by Distress and Sale of Goods and Chattels of the Person so refusing, reserving reasonable Charges, for making the said Distress, and rendering the Overplus to the Owner, if any there be.

By the 3 and 4 of *William and Mary* is farther provided, That whereas the Fines imposed and set on the Presentment of a Justice of the Peace, and other Fines and Issues, for not repairing the Highways, being oftentimes returned into the Court of *Eschequer*, and other Courts, and so levied upon some particular Inhabitants, and no Provision made to reimburse them; now on the contrary, Fine, Issue, Penalty or Forfeiture shall not for the future be returned into any of the said Courts, but be levied and put into the hands of the Surveyors, to be applyed towards the Repair of the said Highways; and if it be hereafter levied on one or more of the Inhabitants, his or their Complaint, for Redress lies to the Justices of the Peace, at their special Sessions; and they, or any two of them, by Warrant under their Hands and Seals, may cause a Rate to be made, according as before set down, for the reimbursing the Surveyors of their Money laid out for the Repair of the Highways, or of such Inhabitant or Inhabitants, as the Money shall be levied upon; which Rate so made and confirmed, shall be collected by the Surveyor or Surveyors; and he or they,

they, within a Month next after the making and confirming the Rate, must pay unto the Inhabitant or Inhabitants such Money so levied on him or them, as before recited.

CHAP. LXXXIII.

Several Matters relating to Justices of Assize, and Justices in their Sessions of Peace, concerning Surveys; with Law-Matters relating to them.

Justices of the Assize, and Over and Terminer, Justices of the Peace in their Sessions, and Stewards of Leets on Law-days may hear and determine Offences against the Statute of the 18 *Ed.* and the Surveyors who are to Levy the Fines and Forfeitures of that Statute, and the Constables and Churchwardens who are in default of the Surveyors, to Levy the same, are to yield up their Accounts to them, as appointed in 2 and 3 *Phil.* and *Mary* Chap. 8. and 5 *Ed.* Chap. 13.

All defects or Repairs of Causeways, Highways, Pavements or Bridges, shall be presented in the County where they lye, and not elsewhere; and that no such Presentment or Indictment shall be removed by *Carticari* into the King-Bench, or otherwise, out of the said County, till such Presentment or Indictment be first traversed; and Judgment thereupon given, 12 *Carol* 2. Chap. 12.

And no Indictment, or Presentment, or Order, by Virtue of the Statute of 2 and 4 *M.* and *M.* is to be removed out of the County unto any other Court relating to Highways, &c. but are to be determined in the County where the same doth lye, and not elsewhere.

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All Actions against any Person or Persons for any thing done by means of the Act of 22 *Caroli* 2. for Repairing the Highways, shall be laid in the proper County where the Fact was done, and not elsewhere, and to it the Defendant may plead the General Issue; and if there be a Verdict for the Defendant or the Plaintiff be Non-suited, or discontinue his Action, the Defendant shall recover treble Cost, sustained by reason of such Action or Suit, and by the 3. and 4. of *W. and M.* in such Cases the Defendant may plead the General Issue, and give the Special Matter in Evidence; and if the Plaintiff be Non-suited, or forbear prosecution, or a Verdict pass against him or her, the Defendant or Defendants shall recover double Costs.

Trustees of Lands given to the use of maintaining Pavements, Causeways, Highways and Bridges, are obliged to Let them to Farm at the most improved Rent, without any Fine, and the Justices of the Peace in their open Sessions may order the Improvement and employment of such Lands, or the profits arising thereby, other than such Lands as have been given to the uses aforesaid, to any Colledge or Hall in either of the Universities, that have Visitors of their own, according to the Will of the Donors: if it appear to them the persons have been faulty or negligent in the performance of their Trust, 22 *Caroli* 2. Chap. 12. *Rebels Statutes*, Folio 1354. Sect. 2. *Wingate Highways*, Section 32.

C H A P. LXXXIV.

Directions to Surveyors in case of Restraints upon Seigniors, and what relates to Penalties concerning Wains or Carriages on the Road.

If any person or persons shall resist or make forcible Opposition against any of the persons employed

ployed in the due Execution of the Acts of Parliament 2 and 3 P. and M. 4 and 18 Eliz. 22 Carol. 2. made for the more effectual Amendment of the Highways, or shall Rescue any Goods or Cattel taken in Distress, by virtue thereof, being convicted by the Oath of one credible Witness before any one Justice of the Peace, or by the view of the Justice himself; for every such Offence the Offender shall forfeit 40 s. and if not paid in seven days, the Party to be committed to the County Goal, where the Offence was committed, to remain till paid; and this is to be delivered to the Surveyor or Surveyors of the Highways in the Parish where the Offence was committed, and employed for the amending the said Ways, 22 Car. 2. Chap. 12.

All Travelling Wains, Carts or Carriages, by way of common Carriage, are not to go with a Team on the publick Highways with above Five Beasts at length, and if they shall Drive with a greater number of Horses or Oxen, they shall all Draw in Pairs, that is, two a Breast, for such number as they shall use, except one Horse: And in defect of this, the Offender or Owner of the Waggon, Carriage, &c. forfeits 40 s. one third part to the Surveyors of the Highway of the Town, Village or Hamlet where the Offence shall be committed, another third to the Overseers of the Poor, and another to the Informer; and this to be imposed on the Offender by any one Justice of the Peace of the place or Division where the Offence is committed, upon the Oath of one credible Witness, or upon the Justices own view, and to be levied by the High Constable or other Officer of such place or Division, by Warrant. And a Surveyor seeing and suffering Waggons or Carts to pass with more Horses, &c. than mentioned, or in any other Order, may upon Conviction

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on for such his neglect, be Amended by the Justice in any Sum under Forty Shillings, to be levied on his Goods and Chattels.

CHAP. LXXXV.

Directions to the Scavengers and Managers of Sewers in the Cities of London and Westminster, the Borough of Southwark, relating to their Duty and Office.

AS for the Cities of London and Westminster, their Scavengers are in the Nature of Country Surveyors, where Commissioners are over them appointed, to take care they do their Duty, and to take Cognizance of Vaults, common Drains, or Common-choars, to remove Nuisances, and to see after the Pavements, Payment of Rates, and what else shall be amiss, also in the Borough of Southwark, and places adjacent, the aforesaid Cities, in them the House-keepers are to sweep and cleanse the Streets, Lanes and Alleys, and publick places before their Houses, and bring out their Dirt or Soil fit for the Raker to take up and carry away, and the Mayor, Aldermen, and Common-council of the City of London, may let out and purchase Grounds for Laystalls, to receive the Dirt and Rubbish carried out of the City, and for other Materials and Commodities. And any person upon Complaint of Nuisances in Defect of Pavement, Dirt or Rubbish lying beyond the usual Time, neglect in Rakers in not duly coming and giving Notice to bring out Dust or Dirt by Ring of Bell or such like Warning, may by the Commissioners be redressed, and the parties offending punished as the Statutes in those cases provide and direct.

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No person under the Penalty of Five Shillings, is to throw any Dirt, or Rubbish, or Noisom thing into the Streets that may be a hindrance or give Offence, nor into any Lanes or places of publick passage, &c. or against a Wall of any Church, Churchyard, or any House; and if they throw it into any common Vault, or Sink, to hinder the Current of the Drains, they forfeit 40s. 14 Car. 2. Chap. 2. And those that sweep not up their Dirt for the Scavenger to take away before their Houses in Streets, Alleys, and other publick places, forfeit 1s. 4 d. for every Neglect, 13 Car. 2. Chap. 2.

If any Hoop, wall or cleafe any Barrells or other Cask, or set out empty Cask to mend, or hew rough Timber, saw Stone, for each of these Offences they are to pay 20s. and every Householder is to keep the Streets, Lanes, and other publick passages, in far as belongs to him paved, well paved unto the Channel or middle of the Street or Lane, under the Penalty of 20s. for every Rod that shall be defective, and 20s. a week till it shall be paved or mended. To enquire after Offenders, and make such Redresses as are found Aggrievances, by applying themselves to the Commissioners, &c. and by the Statute of the 1st William and Mary, among other things it is enacted, that the Rakers, Scavengers and other Officers thereto appointed, shall every Day in the Week, *Sundays* excepted and other Holy Days, bring their Carts and other Carriages unto their several Charges and Divisions where they can pass, and give Notice at or before by the ringing of a Bell there, and in Alleys and other places where they cannot pass, that the People may sweep up and bring out their Soil, which the Rakers are every day obliged to carry away under Penalty of 40s. for every Offence.

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In the Place and Division where any new Street shall be made, the Justices of the Peace of that Division may take a View, and if they think it convenient to be paved, or otherways amended, they are to certify the same under their Hands to the Justice of the Peace at the next General Quarter Sessions for the Place where the Street or Streets are, who are to take order for the paving or amending as they shall think fit, and all People concerned therein, by a limited time ordered by the Justices, are to be complying under the Penalty of 40 s. for every Perch, upon such Offence or Default, and accordingly for a greater or lesser Quantity, and the like Sum for every Week it shall remain so unpaved or amended; and any Scavengers duly chosen, refusing to take upon them the Office forfeits Ten Pounds for such Refusal, then other two to be chosen within seven Days after such refusal, and to forfeit as the Former upon refusal, and the Penalties to be paid to the Surveyors of the High Ways of the place, to be employed towards the amending the High Ways and Streets of the same Parish, Ward or Division, to be levied by Distress and Sale of Goods and Chattels of the Offenders, by Virtue of Warrant from a Justice of the Peace in any of the Places where the Offence is committed, to be directed for that purpose to the Constables or other Officers of the said Parish, to any two or more of them, and reasonable Charge for the Distress being deducted, the Overplus is to be returned to the Owner if any there be, and for want of Distress or Non-payment within six Days, upon Demand or Notice left at the House of the Offender in Writing, he or they so offending may be committed to the common Goal of the County, City or Place respectively, by Warrant from any of the said Justices of the Peace under Hand and Seal, and there to

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remain without Bail or Mainprize till payment be made as aforesaid, and so for every person elected and refusing the Office, &c.

CHAP. LXXXVI.

Within what time Rates are to be made, and by whom. How the Scavengers are to account for them, and the Penalties upon Refusal. Assessment how to be made and levied, &c.

WITHIN Twenty Days after the Scavengers are elected, the Constable, other Officers and Parishioners, or the greater number of them present, are to make a Rate or Assessment, according to Pound Rate upon the Inhabitants of their Parish, to be allowed and confirmed by two Justices of the Peace of the place, &c. to be collected Quarterly; and if upon Demand of the Scavenger or other Officer appointed to collect the same, Payment be refused, Distress may be made by Warrant under the Hands and Seals of two Justices of the Peace, to be levied by Distress and Sale of Goods, or for want of such Distress and Non-payment, the Offender to be Imprisoned till payment be made, unless a Peer of the Realm.

The Money so collected is yearly to be accounted for by the Scavengers, for the time being, to two or more of the Justices of the Peace residing in or near the Places, for which Scavengers are appointed, within 28 Days after the new Scavengers are chosen for the Year ensuing, and to be paid into the Hands of the new Scavengers, if any remain undisbursed in their Hands; and two such Justices of the Peace upon refusal to make Account, may commit the Refuser or Refusers to Prison without Bail or Mainprize, till he or they account and pay the Remainder.

Where

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Where in a Parish there are such High ways as cannot be amended without the Help of Assessment, then one or more Assessments from Time to Time may be made upon all the Inhabitants, Occupiers, and Owners of Lands, Houses, Tenements, or any personal Estate there, usually ratable to the Poor, to be allowed, levied, and collected by such Persons as the said Justices of the Peace at their General Quarter Sessions shall appoint and direct, and the Money so raised to be accounted for, and employed towards repairing such High ways from Time to Time as the Justices shall appoint or order to be levied, by the Distress and Sale of the Goods of the Persons so assessed, upon Non-payment of the same within 14 Days after Demand.

C H A P. LXXXVII.

Several things very useful to be known to Surveyors, Scavengers, as Commission of Sewers, Weights of Hay. Hay or Straw-carts standing in the Streets, Wheels of Carts, their Size; keeping of Swine, and putting out Lights, Lamp-lights, &c.

ALL the Sinks, Sewers and Vaults made since the Twelfth of King Charles the Second, in the City and Liberties of *Westminster*, &c. are under the Care of the Commissioners of Sewers, who have power to cleanse, alter, or to order them as to them shall seem best for Conveniency, or to make new ones, and to take away all Nuisances, and to take away any cross Gutters or Chan-

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Channels in all or any of the Streets or Lanes within their Division.

Every Truss of old Hay brought or offered to be sold within the Cities of *London* and *Westminster*, and other places within the Weekly Bills of Mortality, is according to Statute to weigh 55 Pound at the least, from the last Day of *August* to the first Day of *June*, and from the first Day of *June*, to the last Day of *August*, being new Hay of the Years growth to weigh Sixty Pounds; but if old Hay of the last Years growth, 55 as aforesaid, and none to suffer their Waggons or Carts to stand in the places aforesaid, laden with Hay or Straw, to sell the same after two of the Clock in the Afternoon, from *Michaelmas* to *Lady-day*, nor after Three from *Lady-day* to *Michaelmas*, on Penalty of Five Shillings for every Offence or Neglect, one half to the poor, and the other to the Informer, upon Commission of the Offence; but if the Justice of Peace see it on view, then upon Conviction one half to the poor, and the other half to the Scavenger, upon Default of Payment for the paving and cleaning the place, or otherways to the relief of the poor as aforesaid. This to be levied by Warrant, by Distress and Sale of the Offenders Goods, and Chattels, by the Constable, Headborough, &c. of the Parish where the Offence is committed, and in Default of Distress or Non-payment within Six Days upon Notice or Writing left at the Offenders House by the Constable, or Headborough, where it is not by the Act of 2 W. and M. otherway provided, unless the Party be a Peer of the Realm, he is to be committed to the common Goal of the City or County respectively by Warrant; and to remain without Bail or Main.

Mainprize till payment. And by the same Statute the Wheels of every Cart or Dray to be used for any Carriage whatsoever, from any place within the said Cities and Places within the same, where the Streets are paved, are to be made to contain in full Breadth 6 Inches in the Felly, and must not be shod or wrought about with Iron Work, nor drawn with above two Horses after they are up Hill from the Water side, upon Forfeiture of 40 s. for every Offence, to be levied by Warrant on Goods and Chattels, in Distress, as other the like Cases, though this extends not to Country Carts or Waggon's that shall bring Goods to the Cities or Places aforesaid, or shall carry any Goods half a Mile beyond the paved Places of the Cities, Streets, &c. However by an Act of 3. and 4 W. and M. Chap. 12. this last Clause seems to be altered; for any Inhabitant of any of the Parishes within the weekly Bills of Mortality, who dwells off and from the Pavement, and uses his Cart as well off as upon the Pavement, or any Brewer or Scavenger or other Person employed in carrying away the Dirt and Soil in Lanes, Streets and Alleys, may use shod Wheels for Dray or Cart, and narrower than Six Inches in the Fellies, notwithstanding the former Act or any Law or usage to the contrary. But this seems not to affect Cars, and such as carry Merchants or Shop-keepers Goods.

By the Act 2 W. and M. no person or persons are to keep, breed, or feed Swine in any part of the House, Backsides of the paved Streets of the said Cities, Boroughs, or Parishes, where such Streets, are contiguous, on penalty of forfeiting them to the use of the poor of the Parish where such Swine shall be kept.

All Householdiers in the Cities and Liberties of *Westminster*, and Counties of *Surrey*, and *Middlesex*, comprized within the Bills of Mortality, are by a new Act, where their Houses adjoyn to, and are near the Street, to hang on the outside of their Houses next the Street, every Night from *Michaelmas-day* to *Lady-day*, Candles, or Lights in Lanthorns, from time to time as it shall grow Dark, to continue burning till Twelve of the Clock in the Night, on pain of forfeiting 2 s. for every Default, unless such as shall agree to pay and make use of the Convex Lights or Lamps, to be placed at such Distance in convenient places of the Streets, as two or more Justices of the Peace shall approve of.

As for the several Acts for mending particular Ways, Bridges, &c. they are very many, and not concerning a Surveyor, in general. What is written may suffice, not doubting but considering what is set down, which is the most material, it will in a great measure inform him well to discharge his Office, to the Content and Satisfaction, not only of the Parishioners, but of the Laws, requiring him in all respects to perform his Duty, as a Trusty and knowing Surveyor or Scavenger.



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Rich. Crum

1774

W. R. A. Crum
Deceased this Life
Oct. 23.. 1803.
Aged. 49 years

